The Planning Inspectorate

Costs Decision

Site visit made on 4 December 2020

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Costs application in relation to Appeal Ref: APP/Q9495/W/3237004
Land adjacent to Greenthwaite, Ennerdale Bridge, Cleator, Cumbria CA23 3AR

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr & Mrs Robert Dean for a full award of costs against the Lake District National Park Authority.
- The appeal was against the refusal of planning permission for the erection of a new two storey 4 bedroom dwelling with detached garage and sheltered external storage areas.

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

3. The application essentially relies on the fact that the Officers of the Local Planning Authority (LPA) recommended the application for approval, following positive pre-application discussions, but Members of the LPA's Development Control Committee took a different course of action in refusing planning permission. The applicant is of the view that the proposal complies with both national and local planning policies and therefore ought to have been approved in accordance with the Officers' recommendations. Furthermore, the applicant considers that the LPA has failed to set out why the proposal would not comply with Policies CS02, CS03 and CS11 of the Lake District National Park Core Strategy 2010 (the CS).

4. The PPG makes it clear that a local planning authority will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate each reason for refusal.

5. In this case I have noted the recommendations of the LPA's Officers and the pre-application advice. However, the decision is one which is a matter of judgement. Members were entitled not to accept the professional advice of their Officers so long as a case could be made for the contrary view.

6. I am also mindful that informal pre-application advice given before an application is made is issued without prejudice and cannot pre-determine the

outcome of a subsequent application for planning permission, which must be subject to the full statutory process. Therefore, such advice is not binding on any future decision that the LPA may make.

7. It will be seen from my decision that I agree with Members of the Development Control Committee and that there were sufficient grounds for refusing planning permission due to the harm identified to the character and appearance of the surrounding area. It follows that I am satisfied that the LPA has shown that it was able to substantiate its reasons for refusal.

8. In addition, I am content that Policies CS02, CS03 and CS11 of the CS, taken together, contain requirements to safeguard distinctiveness of place, local character and the quality of the local landscape. Accordingly, given the main issue in this case, it was appropriate that conflict with these polices were cited in the LPA's reason for refusal.

9. Consequently, I cannot agree that the LPA has acted unreasonably in this case. As such, there can be no question that the applicant incurred unnecessary or wasted expense.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated, and thus an award of costs is not justified.

J M Tweddle

INSPECTOR