



Costs Decision

Site visit made on 28 October 2020

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2021

Costs application in relation to Appeal Ref: APP/P2935/W/20/3252386 Land West of Westacres, Wark.

- 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 Adam Watson for a partial award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for outline permission for up to 18 dwellings (including 7 self-build plots) including affordable housing and access.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 appellant submits that the Council has behaved unreasonably in a number of respects. First, the Council has not provided an Appeal Statement or confirmed if it relied on its Officer's report. Second, the Council has failed to provide any suggested conditions. Third, the Council has failed to respond on the evidence provided regarding its third reason for refusal.
4. The appellant's application for costs is specifically for the expense involved in pursuing the appeal and the additional assessments provided.
5. With regards to an Appeal Statement, the Council indicated on the Questionnaire that it intended to submit a statement of case, although it did not do so by the required deadline. The Council has expressed regret for this and refers to factors such as the issue of an Appeal Decision¹ on the same site. However, that Decision was issued at a later date than the deadline for the Council's statement, and does not therefore justify the lack of a statement. The Council has therefore behaved unreasonably in failing to follow due process and provide a statement of case by the specified deadline.
6. However, I consider that the Council's Officer Report provides substantive reasoning for the Council's decision. As can be seen from my Appeal Decision, I have agreed with the Council's reason for refusal on character and appearance. Whilst I have concluded that the appeal site was not contrary to planning policy

¹ Appeal ref: APP/P2935/W/19/3235782, dated 17 August 2020

in relation to the sustainable location of rural housing, the Council's stance on this matter was set out in the Report and I do not consider that the conclusions regarding this were not so without foundation as to represent unreasonable behaviour. In effect, the Council Officer's Report provides substantive reasoning which has enabled the appellant to make his case. There is nothing in the Council's evidence to demonstrate that it did not wish to defend its decision. Furthermore, having regard to my conclusions on the proposal, this has not led to an appeal which could otherwise have been avoided.

7. With regard to the suggested conditions, the Council failed to provide these by the specified deadline which represents unreasonable behaviour. However, these were eventually provided and would have been required in any event as part of the appeal process. The appellant has therefore not been put to unnecessary expense in considering the suggested conditions.
8. In respect of the third reason for refusal, the appellant has submitted evidence with the appeal which addresses the Council's concerns on this matter. The Council has confirmed that it has withdrawn this reason for refusal. However, the lack of a response on this matter within the specified deadline for the Council's statement of case is unreasonable behaviour in that it does not follow due process. That said, this evidence would have been required as part of the appeal process in any event, and the appellant has therefore not been put to extra expense in providing this evidence.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

David Cross

INSPECTOR