The Planning Inspectorate

Costs Decision

Hearing Held on 13 January 2021

Site visit made on 14 January 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 February 2021

Costs application in relation to Appeal Ref: APP/C9499/W/20/3260523
3 Rayne Cottage, Gaisgill, Penrith CA10 3UD

- 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 Rayne Holdings for a partial award of costs against Yorkshire Dales National Park Authority.
- The hearing was in connection with an appeal against the refusal of planning permission for the erection of residential cabin for agricultural worker (retrospective).

Decision

1. The application for costs is refused.

The submissions for Rayne Holdings

2. That the Yorkshire Dales National Park Authority (the Authority) have incorrectly applied Policy HS3 of the Eden Local Plan (2014-2032) in the appeal case. It is contended that the policy is limited to permanent dwellings (only), and, as borne out by the Authority's response to a Housing Supplementary Planning Document consultation representation, does not include or address proposals for temporary accommodation. It is argued that this is unreasonable and has caused injustice leading to the necessity to argue the case at appeal.

The response by Yorkshire Dales National Park Authority.

3. That the Authority has interpreted the policy correctly and in a consistent way such that it has not acted unreasonably or in an obstructive manner.

Reasons

4. Paragraph 30 of the Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

5. Local planning authorities are at risk of an award of costs against them where there is evidence of preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

6. Consistent with my finding in the appeal and pursuant to section38(6) of the Planning and Compulsory Purchase Act 2004, if regard is to be had to the development plan for the purpose of any determination, the development

proposals are determined in accordance with the development plan unless material considerations indicate otherwise.

7. The tests set out in Policy HS3 relate to essential dwellings for workers in the countryside. The policy is consistent with the strategic aims of restrictive Policy LS1 which permits limited forms of development in Other Rural Areas. Policy HS3 does not distinguish between dwellings that are proposed as permanent dwellings, those that are of a more temporary nature, or those that might be permitted for a limited period only. It provides detail on the restriction imposed under Paragraph 79 of the National Planning Policy Framework.

8. Although the criteria within it may strictly control development, as is intended, the test specifies a requirement to demonstrate the essential need for a dwelling. Other than the effects of that dwelling in terms of design and its impacts on the locality, there is no distinction as to the nature of the dwelling, and nor need there be.

9. The fundamental test is that of necessity and is placed at the threshold of being necessarily at, or near, the enterprise where it would be occupied by a full-time rural worker. At the time of the Authority's decision the need for a full-time worker and profitability of the agricultural enterprise was not demonstrated. In the circumstances of non-compliance with the policy, the Authority considered other material considerations and, as I have found, there was insufficient evidence to demonstrate that other existing buildings present on the holding and capable of serving the essential need could not be utilised.

10. In an instance requiring demonstration of exceptional circumstances, it is incumbent on the applicant to robustly support its case for the essential need and show that it could not be suitably met elsewhere. In the substantial absence of detailed financial information to demonstrate that the other buildings on the holding could not reasonably serve the need, I find the Authority's conclusion was fair and reasonable in the particular circumstances of the case. Furthermore, those circumstances are such that it would not have been appropriate for the Authority to consider a temporary permission.

Conclusion

11. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for partial costs is therefore not justified.

R Hitchcock

INSPECTOR