The Planning Inspectorate

Costs Decision

Site visit made on 01 March 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th March 2021

Costs application in relation to Appeal Ref: APP/H0928/W/20/3263051
Rookby Scarth (adjacent to) Winton, Kirkby Stephen CA17 4HU

- 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 Ms Bayliffe for an award of costs against Eden District Council.
- The appeal was against the refusal of the Council to grant planning permission for the change of use and conversion of existing agricultural barn to new dwelling.

Decision

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

Procedural Matter

2. The costs application does not specify whether a claim for a full or partial award has been made. Given the substantive ground included under the claim, I have treated it as an application for full costs.

Reasons

3. The Practice Guidance (PPG) advises that, irrespective of the outcome of the 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.

4. PPG makes it clear that Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal or in relation to procedural matters at the appeal. The claimant has concerns on both fronts.

Substance of the matter under appeal

5. As identified by PPG[1], examples of unreasonable behaviour include;

- 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. However, as can be seen from the decision letter which accompanies this application for costs, the Council have not acted to prevent or delay development which should clearly have been permitted.

[1] Paragraph: 049 Reference ID: 16-049-20140306

7. The decision letter (DL) clearly sets out why Policy RUR3 of the Eden Local Plan 2014-2032 (ELP) is applicable to the proposal and why it is important in the determination of the appeal. The DL also recognises the benefits of the incorporation of more sustainable construction methods. Given that this decision accompanies the claim for costs, I do not intend to repeat these points again within this decision.

Procedural matters at the appeal

8. The claimant is clearly unhappy at the procedural handling of the application by the Council. Some of the points of concern could possibly be directed to the Council through their complaint's procedure, although whether to do so is a matter for the claimant. However, I can only conclude that the grounds of concern in relation to procedural matters are not at all clearly substantiated within the application for costs.

9. In any event, costs cannot generally be claimed for the period during the determination of the planning application, although all parties are expected to behave reasonably throughout the planning process. There is nothing before me to provide me with any certainty that the Council have behaved unreasonably. It is not demonstrated that these matters resulted in wasted expense during the appeal process.

Conclusion

10. 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.

11. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

T J Burnham

INSPECTOR