



Costs Decision

Site visit made on 14 June 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st July 2021

Costs application in relation to Appeal Ref: APP/P2935/W/21/3270599 Land North Of Tughall Steads, U2035 Road to Tughall Farm, Ellingham NE67 5ER

- 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 Mrs Judy Fortescue (Andrew Robinson Farms) for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of the Council to grant planning permission for the construction of 1no. 4 bed dwelling to be used as a primary residence. Unit to be 1.5 storey in height.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, Planning Practice Guidance (PPG)¹ advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appeal was made against a refusal to grant planning permission for the construction of 1no. 4 bed dwelling to be used as a primary residence. Unit to be 1.5 storey in height. It is claimed that the Council have acted unreasonably in their determination of the application by:
 - 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;
 - Failing to produce evidence to substantiate each reason for refusal on appeal; and
 - Making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. An application for a full award of costs is therefore made.
5. As can be seen from the decision letter, I have identified clear conflict with the development plan in respect of harm to the setting and character of Tughall. The Council have not therefore prevented or delayed development which

¹ Paragraph: 030 Reference ID: 16-030-20140306

should have clearly been permitted and I do not identify unreasonable behaviour in this regard.

6. Although there is limited in depth analysis and the comment is to the point, the officer report and statement provide comment which substantiates refusal reason 1. The grounds on which the proposals were found to be unacceptable are clearly expressed and details of relevant development plan policy have been provided in support of the reasoning. There is therefore evidence to substantiate the reason for refusal.
7. For the same reasons I do not find that the Council has made vague, generalised, or inaccurate assertions about the impact of the proposal, unsupported by any objective analysis. I do not therefore find unreasonable behaviour in these regards.
8. The Council, within their statement confirm that a draft planning agreement relating to an ecological mitigation contribution would overcome their concerns in relation to refusal reason 2. A signed agreement accompanies the appeal although this post-dates the Council decision notice. There is no evidence to indicate that a completed agreement was before them at the time they made their decision and as such it was not unreasonable of the Council to include refusal reason 2. They did not act unreasonably in this respect.
9. I have addressed the matter of the reference to the type A access within the decision letter. The Council have acknowledged it was included in error, which could potentially be construed as being an unreasonable action. However, it is not clear that addressing this matter has resulted in unnecessary or wasted expense for the appellant given that addressing this matter would only require the very briefest comment given the parties agree this was an error.

Conclusion

10. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

T J Burnham

INSPECTOR