



Costs Decision

Site visit made on 22 June 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2021

Costs application in relation to Appeal Ref: APP/B3438/W/20/3264486 Ringe Hay Farm, Basford Green Road, Basford, Leek ST13 7ET

- 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 D Pearson for a full award of costs against Staffordshire Moorlands District Council.
 - The appeal was against a refusal to grant planning permission for 'Outline application, including access, for the erection of an environmentally sustainable, zero-carbon eco-home built into the hillside; landscape and nature conservation enhancement and improvement of the entire holding; PV panels, electric car charging facilities; and the deposit and re-use of excavated material'.
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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. The PPG provides 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, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples of this include preventing or delaying development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations or where new reasons for refusal are introduced.
3. The appellant suggests that the Council was wrong to suggest that there was insufficient information to demonstrate that the dwelling would be zero-carbon. Given the development plan is not supportive of new market housing in the countryside and the Framework endorses a plan-led approach, a new dwelling in this location would only be approved where there were material considerations which warranted a decision other than in accordance with the development plan. As I have also found, the outline nature of the proposal does not provide sufficient certainty in respect of the design and sustainability credentials of the dwelling and the Council was not at fault in wanting to stringently assess these matters.
4. Without final design details I can understand why the Council would suggest a condition requiring details of how the dwelling would be constructed to Passivhaus standards and it is clear that this suggestion was made without prejudice to its case.

5. I share the Council's concerns as to the difficulties in monitoring and enforcing the use of electric vehicles by occupants of the dwelling. I have found in any case that this would not be sufficient to resolve the locational deficiencies identified or the wider sustainable development requirements of the development plan and the Framework.
6. The cost of producing additional sustainability documentation was a decision taken by the appellant, but despite requests by the Council the proposal was not supported by a full application or detailed drawings. Furthermore, the Council's concerns in respect of the potential flat roof design of the dwelling did not ultimately form part of the reasons that the planning application was refused.
7. There is no substantive evidence before me to persuade me that the Council did not follow its constitutional requirements in terms of not taking the planning application to its Planning Committee for a decision. Furthermore, if the applicant was sufficiently concerned about the processing of the planning application and the length of time the Council was taking to issue a decision, they could have appealed against non-determination.
8. The applicant suggests that the Council's statement introduces new arguments not mentioned in the decision notice. However, matters of precedent, insufficient detail to assess the sustainability credentials of the dwelling and the effectiveness of the legal obligations put forward are not new reasons for refusal. They are matters which are pertinent to considering whether there are material considerations to justify the provision of a dwelling in a location which conflicts with the Council's spatial strategy.
9. For the reasons set out, I therefore find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

M Russell

INSPECTOR