
Costs Decision

Site visit made on 14 January 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 28th February 2022

Costs application in relation to Appeal Ref: APP/P2935/W/21/3282705 Kingshaw Green, Warden, Hexham NE46 3SA

- 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 James Turnbull for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for erection of shepherd's hut for tourist accommodation.
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Decision

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

Reasons

2. Paragraph 30 of the National Planning Policy Guidance (NPPG) advises that, irrespective of the outcome of an appeal, costs may be awarded where a party has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 49 of the NPPG makes it clear that local planning authorities are required to behave reasonably in relation to procedural matters at the appeal, and also with respect to the substance of the matter under appeal, for example, not determining similar cases in a consistent manner.
4. Firstly, the appellant seeks an award of costs on the grounds that the planning officer did not arrange to visit Kingshaw Green during the determination of the planning application. He contends that the closest vantage point to the site is around 200m away, on the footpath that runs alongside the site.
5. With regard to the reasons for refusal, the flooding and water disposal issues turn on technical matters that could not be assessed from a visual inspection of the site. With regard to the openness of the Green Belt, the spatial aspect does not depend on the visibility of the site. It is clear from the facts of the case that the proposed development would create a new building in a place where no development currently exists. It would therefore have a tangible impact on the openness of the Green Belt. Whether or not such an impact is acceptable turns largely on policy considerations that may be assessed from written submissions. I note that, in terms of the impact of the proposal on the character and appearance of the site and its surroundings, the Council found in the appellant's favour.

6. Therefore, whilst recognising the appellant's frustration over this matter, it is not clear how the lack of a visit to the appeal site itself has directly led to unnecessary or wasted expense in the appeal process.
7. Turning to the substantive matters, the appellant is concerned that, in refusing his application, the Council have failed to take a consistent approach to decision making. He refers to planning permission ref: 18/03682/FUL for a holiday chalet on land that is also within the Northumberland Green Belt. On my reading of the planning officer's report for that permission, some key differences arise between that proposal and the appeal scheme.
8. Crucially, the proposed holiday chalet was to replace an existing timber building, albeit one that was smaller and in a different location within the site. The planning officer concluded that the proposal fell within the exception set out in paragraph 143(g) of the previous version of the NPPF, and also found that there would be no harm to the openness of the Green Belt. These circumstances alone lead me to find that the facts of the two cases are materially different. I therefore find no inconsistency in the Council's approach to the matters in question.
9. The appellant contends that the Council have given no weight whatsoever to the benefits of the appeal scheme to the local economy. However, I note that this matter is addressed in paragraph 7.12 of the planning officer's report, where 'very modest' benefits are recognised. It is therefore not correct to say that no weight was given to the benefits in question in the decision making process.

Conclusion

10. For the reasons above, I find that it has not been demonstrated that unreasonable behaviour has occurred which has caused unnecessary or wasted expense on the part of the appellant, as described by the NPPG. As a result, no award is made.

Elaine Gray

INSPECTOR