
Costs Decision

Site visit made on 14 January 2022

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 21 March 2022

Costs application in relation to Appeal Ref: APP/P2935/W/21/3285427 Bayview, Beachway, Blyth NE24 3PG

- 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 Barry Elliott for a partial award of costs against Northumberland County Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the change of use of private dwelling into 4no. holiday lets & separate holiday home to rent, and erection of 4no. holiday homes to rent with associated carparking.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, costs may only 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.
3. The applicant points to what they consider is an inconsistency in how the planning application which is the subject of the appeal was dealt with compared to previous planning applications on the site. They are seeking a partial award of costs in respect of the Council's behaviour in respect of heritage and parking issues.
4. The Planning Practice Guidance (PPG) states that local planning authorities are at risk of costs being awarded against them if they behave unreasonably with respect to the substance of the matter under appeal. This can include not determining similar cases in a consistent manner and delaying development which should clearly be permitted.
5. In their response to the application, the Council's highways team referred to parking standards from the emerging Local Plan rather than the adopted development plan. However, even if the arguably less strict adopted standards were applied the required number of parking spaces would ultimately be more than was proposed. Importantly in this case, the development would not accord with either the adopted or emerging parking standards. Whilst there would have been a slight difference in the shortfall this did not alter my findings.
6. Nevertheless, it was unhelpful to refer to standards that were not adopted and that therefore carry less weight than the adopted development plan and any

policy requirements. That being said, there is no suggestion in the Council's appeal statement that they misunderstood the status of the emerging Local Plan. Although I agreed with the applicant that a separate space for the caretaker or chambermaid did not appear to be justified, a shortfall of spaces remained on the site. The appeal development was materially different to the previous domestic extension permission and consequently the parking requirements for each would have been different also. The Council was not inconsistent in this respect. As such I do not consider that the Council acted unreasonably in this matter.

7. I found that the applicant failed to provide the necessary description of significance as set out in the National Planning Policy Framework (the Framework). I do not have any detailed information about the level of information provided with previous applications. However, the Council did not apparently find any harm or require additional information in respect of the previous residential extension scheme in terms of any effect on the scheduled monument. I found in my appeal decision that there were broad parallels in scale and mass in the two schemes. There is an apparent inconsistency as to why the Council found that previous scheme acceptable but raised concerns about the appeal proposal with regard to its effect on that heritage asset.
8. Nevertheless, although any previous planning permission can be an important consideration it does not necessarily 'tie the hands' of the Council should they consider that the proper consideration of the subsequent proposal required that information. The County Archaeologist's comments explained, albeit briefly, why further information was required with specific reference to the significance of the scheduled monument. In this case I too found that it was not possible to effectively consider the effect on the designated heritage asset's significance, or rule out any harm to it, without more information.
9. Furthermore, the County Archaeologist's comments on a different previous application on the site explained that their views were based on the exclusion of the pillbox from that particular development site and is therefore different to the circumstances raised by the appeal scheme.
10. I can, however, appreciate the applicant's frustration at an apparent lack of consistency between how the two applications were considered. This may well have led them to assume that the Council's approach to heritage matters would be the same when submitting the application. However, given the importance that the development plan and the Framework attach to the conservation of heritage assets, the Council could not have disregarded the County Archaeologist's comments lightly. These were received during the Council's consideration of the application, the Council made the applicant aware of them and they gave the applicant the opportunity to provide additional information in this respect. As the Council's position would have been understood before the applicant made their appeal the Council did not act unreasonably.
11. Although the Council did not determine the application within the appropriate timescale, bearing in mind my findings on the appeal, they did not delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
12. All this leads me to conclude that unreasonable behaviour leading to unnecessary or wasted expense in the appeal process in the terms set out in

the PPG has not been demonstrated. Consequently, an award of costs is not justified, and the application is therefore refused.

Geoff Underwood

INSPECTOR