



Costs Decision

Site visit made on 15 March 2022

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2022

Costs application in relation to Appeal Ref: APP/P2935/W/21/3289137 Stublic Hill, Langley-On-Tyne, Hexham, Northumberland NE47 5LG

- 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 M Burnell (Galbraith) for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for change of use of agricultural buildings to residential use and incorporation into existing dwelling and creation of one new dwelling.
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Decision

1. The application for an award of costs is partially allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (the PPG) advises that irrespective of the outcome of the appeal, costs can be awarded where the unreasonable behaviour of a party has caused another party to incur unnecessary or wasted expense in the appeal process.
3. In my accompanying appeal Decision, I concluded that the proposal was unacceptable having regard to all the available evidence and dismissed the appeal accordingly. The Council had adequately substantiated their first and second reasons for refusal relating to the effect on the North Pennines Area of Outstanding Natural Beauty, and whether the hay barn was suitable for conversion having regard to local and national planning policies. I am satisfied, on the available evidence, that the Council appropriately considered the information submitted in support of the application, correctly applied the relevant planning policies, and did not act in an inconsistent manner in relation to these aspects of the scheme. Accordingly, the Council has not behaved unreasonably in these regards.
4. Nonetheless, in relation to refusal reason No 3, I found that the requirement for various open space contributions had not been justified on robust and up-to-date evidence as required by national planning policy, and ultimately, did not meet the statutory tests pursuant to the Community Infrastructure Levy Regulations 2010. In its response to the costs application, the Council has referenced an extract from a recent local appeal decision to support its position on this matter, but as the full decision and application details are not before me, I cannot be certain that the circumstances are the same, or of what evidence was placed before the Inspector. As a result, I have given limited weight to that appeal decision.

5. I am therefore of the view that the Council has failed to produce evidence to substantiate its third reason for refusal at appeal. This amounts to unreasonable behaviour on the part of the Council. Whilst the work relating to this part of the appeal was, in my view, limited in extent, it has resulted in the applicant's unnecessary expense in responding to it as part of the appeal.
6. In terms of other matters raised in the application, there were delays which meant that the Council issued a decision long after the prescribed 8-week period for determination expired. However, on the available evidence, delays could be attributed to both sides, and I am mindful of the impacts of the Covid-19 pandemic. In any event, this is not a case where the Council failed to determine the application. Nor is it a case where the appeal could have been avoided altogether. As such, the Council's handling of the planning application does not fall within the remit of this costs application, and does not amount to unreasonable behaviour.

Conclusion

7. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in relation to refusal reason No 3, and that a partial award of costs is justified on these grounds only.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Northumberland County Council shall pay to Mr M Burnell (Galbraith), the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to the matters within the Council's third reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Northumberland County Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Caines

INSPECTOR