
Costs Decision

Site visit made on 4 January 2023

by F Wilkinson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2023

Costs application in relation to Appeal Ref: APP/G2713/W/22/3305796 Lane End Farm, Station Road, Alne, York YO61 1TS

- 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 Hambleton District Council for a full award of costs against Mr and Mrs Jamie Moore.
 - The appeal was against the refusal of planning permission for the change of use of agricultural land to residential allowing the building of a detached dwelling house with detached garage and related facilities.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. Unreasonable behaviour may be procedural and/or substantive.
3. The Council considers that the applicants acted unreasonably in the submission of the appeal. This is on the grounds that there is no reasonable prospect of success as the appeal is without merit and the applicants have failed to substantiate their case. The applicants dispute this.
4. The applicants submitted an appeal statement that sets out their case as to why the proposed development should be granted planning permission. Notwithstanding the fact that I have come to a different conclusion regarding the acceptability of the proposal, the applicants have nevertheless sought to substantiate their case, including through a consideration of the scheme's conformity with the development plan.
5. In terms of the principle of the development, the main area of dispute between the parties is whether the site would be classed as adjacent to the built form of a defined village and therefore supported by Policy HG5 of the 2022 adopted Hambleton Local Plan. While the supporting text to the policy states that for a site to be supported it is required to be located immediately adjacent to the main built form of the village, and Local Plan Policy S5 provides a definition of the built form, there is nevertheless a degree of subjectivity in how this development principle is interpreted. Indeed, the supporting text to Policy S3 of the Local Plan states that a decision as to whether land is considered to be part of the built form will be made on a case by case basis taking account of all

prevailing circumstances. The conformity of the appeal scheme with these policies is therefore a matter of planning judgement.

6. The Council's second reason for refusal relating to the design of the proposed dwelling is also a matter of planning judgement. The applicants' appeal statement has sought to present a case for a contrary view.
7. The applicants have interpreted the relevant policies differently to the Council. However, this does not amount to unreasonable behaviour by the applicants through pursuing an appeal that has no reasonable prospect of succeeding.
8. For the above reasons, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

F Wilkinson

INSPECTOR