
Costs Decision

Site visit made on 6 September 2022

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 6th February 2023

Costs application in relation to Appeal Ref: APP/P2935/W/22/3299391 Percy Wood Golf and Country Retreat, Chesterhill, Swarland, Morpeth, NE65 9BB

- 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 Harrison Leisure UK Ltd for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for change of use of the land for the siting of up to 60 caravans, along with associated infrastructure and hard and soft landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that, 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 applicants are seeking to recover the costs incurred in the appeal process. This is on grounds that the Council behaved unreasonably during the processing of the application including the time it took to determine the application, the change in the approach of the Council between the appeal scheme and the previous withdrawn application that had been recommended for approval, and the late requests for further information when a draft decision notice and draft section 106 agreement had already been agreed.
4. The applicants consider they have incurred substantial unnecessary expense by way of consultants' fees during the processing of the application and in the appeal. However, the PPG is clear that, while unreasonable behaviour can relate to the processing of the application, the claim for costs relates directly to the appeal and it does not extend to costs relating to the original planning application.
5. The planning application was validated on 3 October 2019. The Council subsequently advised that the application would be determined under delegated powers and that it would be approved. However, before it was determined, and on several occasions, the Council requested additional information and it carried out further consultation. While the consultees were ultimately satisfied with the further information and revised proposals, the procedure for determination was altered from a delegated decision to a

planning committee decision following a request from a Councillor. The Members then refused the application contrary to the advice of the Council officer and the refusal notice was issued on 29 March 2022.

6. The determination period was prolonged, and the Council's ultimate decision will have been a disappointment to the applicants. However, it does not appear unreasonable of the Council to have requested further information, including clarification, during the processing of the application including in response to consultee comments and advice. The somewhat iterative process undoubtedly delayed determination, in part due to the time it took for the requested further information to be provided and for the Council to consider the information and to carry out further consultation. However, while the applicants are frustrated with the delay, there is little substantive evidence that the Council's requests were spurious or unreasonable.
7. Moreover, while the applicants had been given to understand that the application would be approved, it was not unreasonable of the Members to reach a decision contrary to the professional advice received, provided the reasons for refusal could be substantiated. In this regard, the Council did substantiate the reasons for refusal on appeal and with reference to the recently adopted development plan.
8. As can be seen from my appeal decision, I also found harm and conflict with the development plan and I dismissed the appeal. It therefore follows that, notwithstanding the delay, the Council did not prevent or delay development that should clearly be permitted having regard to its accordance with the development plan, national policy and any other material considerations.

Conclusion

9. Therefore, even if the Council had behaved unreasonably during the processing of the application, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense in the appeal, as described in the PPG, has not been demonstrated and a full award of costs is not justified.

Sarah Manchester

INSPECTOR