



Costs Decision

Site visit made on 25 November 2022

by Elaine Gray MA(Hons) MSc IHBC

an Inspector appointed by the Secretary of State

Decision date: 7 March 2023

Costs application in relation to Appeal Ref: APP/P2935/W/22/3304913 Lynn View, Limestone Brae, Carrshield, Hexham, Northumberland NE47 8AL

- 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 Joseph Colin Reed for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for restore and re-build existing derelict dwellings to create single dwelling house with attached holiday-let and erection of ancillary workshop/agricultural storage building.
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Decision

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

Reasons

2. Paragraph 30 of the National Planning Practice Guidance (NPPG) advises that, irrespective of the outcome of the 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.
4. The appellant seeks costs on two grounds, firstly that when the decision notice was issued on 30 March 2022, the reasons for refusal were based on policies that were superseded the following day by the adoption of the Northumberland Local Plan (NLP) on 31 March 2022. None of the policies in the NLP were referred to in the decision notice. Instead, the reasons for refusal were based on the saved policies in the Tynedale Local Plan (2000) and policies in the Tynedale Core Strategy (2007).
5. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. In other words, the Council obeyed the law in determining the application against the development plan policies that were in force on the day the decision was made.
6. Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, and the more advanced its preparation, the greater the weight that may be given. Clearly, the NLP was

very advanced given that it was adopted the next day. Nonetheless, it was not in force on 30 March 2022.

7. The appellant makes specific reference to NLP Policy ENV 6 which relates to development within the North Pennines Area of Outstanding Natural Beauty. He argues that, had the application been properly assessed against this and the other relevant NLP policies, then the outcome of the application might have been different. He is also concerned that the Council assessed the proposal in a somewhat ad hoc manner.
8. As may be seen from my main decision, I have assessed the appeal scheme against NLP policies and against the National Planning Policy Framework. Although I have found the different elements of the scheme to be acceptable in principle, I have concluded that unacceptable conflict arises with the development plan and the NPPF. There is no evidence to suggest that the outcome would have been different had the Council assessed the scheme against the NLP. I am therefore satisfied that the appeal was necessary to examine the main issues in question, and I find no unreasonable behaviour on the part of the Council.
9. Secondly, in recognition of the Council's objections, the appellant submitted revised plans seeking to address as many of the concerns as possible that were raised by the county archaeologist. The appellant reports that the Council received the new plans on 7 February 2022. However, they did not reconsult the county archaeologist on those plans and went on to refuse the application. It is the appellant's case that this lack of consultation prejudiced the outcome of the planning application, as the concerns raised by the county archaeologist could have been overcome.
10. The Council have provided a further consultation response from the county archaeologist dated 2 September 2022, which addressed the additional information, and assessed it against the relevant policies including those within the NLP. However, after considering the revisions in some detail, the objection to the proposal remained. It is therefore evident that, regardless of the stage at which the new consultation took place, the outcome would have been the same. I therefore find no unreasonable behaviour on the part of the Council on this ground.
11. I note that the decision was issued some six months after the original application was validated. However, whilst I recognise the appellant's frustration, this matter does not relate directly to the appeal procedure. It is open to the appellant to raise this matter with the Council through the proper channels if they so wish.

Conclusion

12. 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