



Costs Decision

Site visit made on 22 December 2022

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2023

**Costs application in relation to Appeal Ref: APP/E2734/W/22/3310079
Land comprising of the field to the north of Springfield Bungalow, Crag
Lane, Killinghall HG3 2BD**

- 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 Mrs Rachel Ryder for a full award of costs against Harrogate Borough Council.
 - The appeal was against the refusal of planning permission for erection of detached dwelling with 4no. bedrooms with associated off-street parking, external works and landscaping. Conversion of existing stone storage barn to home office.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. Paragraph 49 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably, with examples of unreasonable behaviour including failing to produce evidence to substantiate each reason for refusal on appeal, or vague, generalised or inaccurate assertions about a proposal's impact.
3. The applicant has submitted a Costs Application (the 'Application') and consider that the Council has behaved unreasonably on two grounds, which I will address in turn.

Ground 1 – Not determining cases in a consistent manner

4. The applicant contends that the Council has failed to determine cases in a consistent manner, which amounts to unreasonable behaviour as set out by the PPG. Specifically, this claim relates to the application of the policies of the Harrogate District Local Plan 2014-2035 (March 2020) (the 'HDLP') in relation to development limits.
5. Prior to determination of the planning application, the applicant submitted a recent appeal decision¹ to the Council which allowed residential development outside, but in close proximity to the development limits of a settlement.

¹ APP/E2734/W/21/3267790

6. All development proposals should be considered on their own merits. Although in allowing the appeal I have arrived at a different conclusion than the Council, I do not consider this to be a case where there has been a clear inconsistency in decision making, as the assessment of each individual case is a matter of planning judgement. I am satisfied that this matter was appropriately substantiated by the Council and none of the criteria amounting to unreasonable behaviour as set out in the PPG have been met in relation to Ground 1.

Ground 2 – Failure to produce evidence

7. The applicant contends that the Council has produced no evidence to substantiate its claim under the second reason for refusal that the proposals do not accord with Policy NE8 of the HDLP, which relates to the protection of agricultural land. The applicant claims that the issue of agricultural land was not discussed at any stage during the determination of the application. I have been provided with copies of correspondence between the Council and the applicant's agent prior to the determination of the planning application, indicating there would only be one reason for refusal of the application. The matter of agricultural land did not form part of this.
8. The Council has not provided any substantive evidence that the use of this land would conflict with the development plan, either as part of the planning application or subsequent appeal. Furthermore, the Council failed to give the applicant an opportunity to address the second reason for refusal prior to issuing the decision, which could have narrowed the scope of the appeal. I find this to be unreasonable behaviour that has led to unnecessary and wasted expense in relation to Ground 2.

Conclusion

9. I find that unreasonable behaviour by the Council resulting in unnecessary and wasted expense, as described by the PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

10. 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 Harrogate Borough Council shall pay to Mrs Rachel Ryder, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to Ground 2 only, such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Harrogate Borough 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.

P Storey

INSPECTOR