



Costs Decision

Site visit made on 21 March 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th July 2023

Costs application in relation to Appeal Ref: APP/P2935/D/23/3314856 Eland Close, Eland Lane, Ponteland, Northumberland NE20 9TP

- 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 David Dixon for a full award of costs against Northumberland County Council.
- The appeal was against the refusal of planning permission for a detached single storey garage and store with associated formation of driveway.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. The applicant alleges that, in making their decision, the Council had not given proper or substantive regard to the fallback development the subject of a lawful development certificate¹. The applicant also puts to me that some of the language utilised within the Council's Officer Report supports their view.
4. The Officer Report states at both paragraphs 7.10 and 7.11 that the development the subject of the appeal would have a greater effect upon the openness of the Green Belt than the fallback development. This demonstrates to me that the Council did compare the likely effects of the fallback development and the appeal proposal and, that they came to the clear conclusion that the latter would have the greater effects upon openness. Therefore, I have no reason to conclude that the Council did not treat the fallback position as a material consideration or failed to provide it with its due regard.
5. The Officer Report identifies that the proposed development would amount to inappropriate development which, they also identify, would, by definition, be harmful to the Green Belt. The Council state that harm to the openness of the Green Belt would also occur. It is clear from the Council's reasoning that the difference in the proximity of the garage building to the dormer bungalow in the proposed development and, in the fallback scheme, was

¹ Application reference 22/00583/CLPROP

key to the Council concluding that the appeal scheme would have the greater effect upon openness. It can be seen from my Appeal Decision that I agree with the Council in this regard. Therefore, whilst I accept the Council's analysis of the effects of the proposal upon the Green Belt are somewhat brief, as is the comparative analysis with the fallback scheme, the Council have sufficiently substantiated their case in respect of the Green Belt. In concluding on openness, the Council have addressed what the National Planning Policy Framework (the Framework) describes as an essential characteristic of the Green Belt. That they do not explain other particular characteristics of the Green Belt or the effect of the proposal upon them in greater detail does not amount to unreasonable behaviour.

6. I also accept that there was a brevity to the Council's assessment of the effects of the proposal upon the character and appearance of the area. However, the Council confirmed that they deemed the proposal would amount to a disproportionate addition to the property, would fail to be subordinate to the host dormer bungalow and, was unacceptable in design and visual impact terms. Again, I find that the Council have adequately substantiated their objections.
7. Although policy STP1 of the Northumberland Local Plan, 2022 (LP) is a strategic policy, there is nothing therein which stipulates that it would not apply to a smaller scale development proposal. I have no reason to conclude it is irrelevant to the development proposed and it can be seen from my Appeal Decision that I assess the proposal against it.
8. The Officer Report states that the appeal site is located within the open countryside because it is located outside of a settlement boundary. On the basis of the evidence before me, Ponteland does not have a settlement boundary. I therefore find that the Council categorising the appeal site as being within the open countryside solely on this basis was inaccurate. Nevertheless, the Council could still have identified, for other reasons, that the site is within the open countryside and/or identified conflict with policy STP1 of the LP. Therefore, despite the aforementioned inaccurate assessment, I have no substantive evidence before me that the pertinent issues of the appeal would have been narrowed. Furthermore, the Council's objection on the grounds of the effects upon the Green Belt would have remained and an appeal could not have been avoided.
9. I note that the Council took 6 months to determine the planning application, well in excess of the statutory time limit. However, I have no compelling evidence that the appellant incurred additional or wasted expense as a result of this delay.
10. Like the Council, I have concluded that the proposed development would conflict with policies within the LP and would be inconsistent with advice within the Framework. It follows that the Council have not prevented a development which, having regard to the development plan, national policy or material considerations, should clearly have been permitted. Furthermore, it has not been shown to me that the Council have failed to have proper regard to or acted contrary to well established caselaw.

11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

H Jones

INSPECTOR