
Costs Decision

Site visit made on 18 July 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Costs application in relation to Appeal Ref: APP/P2935/W/23/3321749 Burnfoot Woods, Pit Allotment Wood, Dilston, Corbridge

- 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 Ms Margot Holton for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for development described as *'proposed storage shed and proposed polytunnel to support existing woodland maintenance (Existing structures to be removed)'*.
-

Decision

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

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. PPG explains that unreasonable behaviour in the context of an application for an award of costs may be either:
 - procedural – relating to the process; or
 - substantive – relating to the issues arising from the merits of the appeal.
3. The applicant considers that the Council has not assessed the proposal as a forestry use despite being specifically applied for within the application. It is alleged that the Council did not seek to clarify the existing use or provide any clarification of what it considers the existing use of the site to be. It is also claimed that the Council failed to give any detailed explanation of how the proposal is not a forestry use or necessary for forestry.
4. The applicant also refers to a fallback position and the availability of permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 (Part 6, Class E – 'Forestry Developments') (GPDO) where they claim that it does not require a development to demonstrate it is "reasonably necessary" and allege that this is a further example of unreasonableness from the Council.

5. In response to the appellants claims, the Council has confirmed that it is still of the view that the use of the site is not truly for forestry purposes and thus not reasonably necessary as part of a forestry operation. The Council claim that the refusal is justified and has been thoroughly assessed against relevant national and local plan policies.
6. The PPG advises behaviour that may give rise to a substantive award of costs including, amongst other matters, preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
7. It shall be seen from my decision upon the planning appeal that is the subject of this application that I have identified that the proposed development would cater for operations of a forestry nature and would not represent inappropriate development in the Green Belt. To my mind, the Council has been unable to clearly substantiate why the proposed development should not be thought to constitute forestry development. Even so, it has been able to correctly identify conflict with Policy STP 1 of the Northumberland Local Plan 2016-2036, 2022 on the basis that the development would not support the sustainable growth or expansion of an existing business.
8. This is an important finding because Policy STP 1 sets out a spatial strategy for the area and is an influential strategic policy. Thus, notwithstanding the successful outcome of the planning appeal and my identification of forestry development, it was not unreasonable for the Council not to support the principle of development. Indeed, it is the case that in determining the planning appeal, I identified conflict with the development plan when read as a whole. Moreover, notwithstanding the erroneous stance taken by the Council with respect to the sites existing use, development was not prevented or delayed that should clearly have been permitted. It should also be noted that any potential fallback position provided by the GPDO had little bearing on the outcome of the appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated such that an award of costs is not justified.

N Teasdale

INSPECTOR