



Costs Decision

Site visit made on 5 September 2023

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2023

Costs application in relation to Appeal Ref: APP/P2935/W/23/3323075 Land north of Hartford Court, East West Link Road, Cramlington

- 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 Gavin Hedley (Hedley Holdings Ltd) for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for the construction of 8no. bungalows with associated access, parking and landscaping.
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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 (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.
3. The applicant's costs application is set out in writing. In summary, they seek an award of costs on substantive grounds as they consider that there has been both a failure to produce evidence to substantiate each reason for refusal on appeal, and a reliance on vague, generalised or inaccurate assertions about the proposal's impact which are unsupported by objective analysis. Reference is also made to planning permission being refused on a planning ground capable of being dealt with by conditions, but it is not explained to which matter that relates.
4. The applicant has set out why they consider that the Council acted unreasonably with regard to each of the seven individual reasons for refusal referred to on the decision notice. The Council has provided a rebuttal as to why it considers that no unreasonable behaviour has occurred in each instance. I shall therefore make my assessment of this costs application by addressing the reasons for refusal in turn.
5. It is clear from the Council's submissions that in referring to the loss of open space they refer to both open spaces defined on the Policies Map and to other existing open space. This is as per Policy INF 5 of the Northumberland Local Plan 2022, which differentiates between the two. I am therefore satisfied that the Council correctly interpreted the requirements of the policy, in particular in regard to criterion 1a). As the applicant did not provide an assessment that addressed the requirements of this policy, the basis for this reason for refusal was not unreasonable.

6. Reasons for refusal 2 and 3 relate to the harm the Council considers would occur with respect to both the character and appearance of the area and in terms of living conditions. These are both matters of planning judgement and the Council has adequately explained in its Officer report and its Statement of Case as to why it came to the conclusions that it did. There is therefore no unreasonable behaviour in either regard.
7. In terms of Condition 4, the clarification requested by the Lead Local Flood Authority on the potential errors in the Flood Risk Assessment they identified does not appear to have been provided. I have found that it would not have been appropriate to have used a planning condition in the absence of this clarity. It was not therefore unreasonable to have refused the planning application due to the concerns relating to a potential increase of off-site flooding from surface water discharge.
8. The Council's highway concerns with respect to the internal layout within the site which formed reason for refusal 5 were clearly explained. Whilst I have taken a different view on the severity of the impact that would arise, there was no unreasonable behaviour on the Council's part in the approach they took or in their defence of their position.
9. With respect to reason for refusal 6, the submissions made by the Council do not demonstrate that they engaged with the applicant's proposed link to the footway to the side of the adjacent supermarket. It is especially not clear why they suggest in their Statement of Case that further drawings are needed, given that this is an existing situation that can be observed on site. They instead focussed on there not being a path to the bus stop and footway access point to the south-east of the appeal site, a solution upon which the applicant did not seek to rely. That the Council refused planning permission partly on the basis of sustainability concerns but have not explained clearly why the appellant's proposed link was not acceptable or achievable is unreasonable behaviour.
10. However, as an appeal was needed to address the several other reasons for refusal, this is not a case where an appeal could have been avoided. Nor, for the reasons that I have set out in my decision letter, is this a case where development that should have been permitted has been prevented or delayed. Furthermore, the points that the applicant made in their appeal submission were unchanged from the planning application stage and did not require the commissioning of any further technical documents or drawings. Therefore, despite the unreasonable behaviour of the Council in this specific respect, the applicant did not incur any unnecessary or wasted expense in the appeal process as a result.
11. The applicant did not submit a planning obligation during the determination of the planning application in order to provide the required contribution towards the coastal mitigation service. Therefore, the Council included the matter relating to the absence of the required mitigation payment as reason for refusal 7. Even if the Council did not actively seek the submission of such an obligation, they did not act unreasonably because there were a number of separate matters on which they refused planning permission, and the submission of a planning obligation would not have overcome these. Furthermore, there was provision for the applicant to have submitted a planning obligation as part of the appeal process. There is no suggestion that

the Council would have been resistant to reason for refusal 7 falling away, if such an obligation had been provided.

Conclusion

12. Although I have found that unreasonable behaviour occurred with respect to reason for refusal 6, this did not result in unnecessary or wasted expense being incurred in the appeal process. There was no unreasonable behaviour with respect to the other reasons for refusal. Therefore, the application for costs fails.

Graham Wraight

INSPECTOR