



Costs Decision

Site visit made on 11 July 2023

by N Kempton BA(Hons), PGDip, MA, IHBC, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2023

**Costs application in relation to Appeal Ref: APP/G2713/W/23/3318176
Land N23905 2901 to the north of Picton Road, and to the east of
Greenleaze, Appleton Wiske, NORTHALLERTON DL6 2AJ**

- 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 & Mrs C Dove for a full award of costs against Hambleton District Council.
 - The appeal was against the refusal of the Council to grant outline planning permission for construction of 2 no dwellings.
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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 heart of the appellants' claim is that the Council was inconsistent in its decision-making and its reasons for refusal were unsubstantiated on a proposal that ought to have been approved. The appellant claims that the Council refused the proposed development over concerns regarding the principle of development on an edge of settlement site and the requirement to demonstrate a sequential approach to site selection, while an appeal regarding an 'identical' set of circumstances and development on the opposite side of the same street, was allowed. The PPG sets out that a local planning authority is at risk of an award of costs if it behaves unreasonably with respect to the substance of the matter under appeal, for example, by preventing development which should clearly be permitted or by not determining similar cases in a consistent manner.
4. I appreciate that the outcome of the application will have been a disappointment to the applicants. However, the Council considered the principle of a dwelling on the appeal site, the scale of the proposed development in relation to the scale and function of the secondary village and the effect of the proposal on the countryside, against the policies of the development plan and the National Planning Policy Framework.
5. While I disagreed with the Council's conclusion on the effect of the proposal on the countryside, the conclusion it drew was not unreasonable. As set out in paragraph 50 of the PPG, to refuse a planning application not in accordance

with the development plan, where no material considerations indicate that permission should be granted, does not amount to an unreasonable refusal.

6. I have had regards to the comparison drawn between the outcome of the application that is the subject of this appeal and that of a recent appeal relating to land east of the former Shorthorn Inn site. In the case of the latter appeal, APP/G2713/W/22/3304618, the applicant had carried out a sequential site selection, which the Council accepted. The Officer's recommendation of approval was overturned by the Council's Planning Committee. In the case of this current appeal, the Council requested evidence to demonstrate that a sequential approach to site selection had been taken in order to satisfy requirement (a) of Policy HG5 of the Hambleton Local Plan. No sequential site selection evidence was submitted for the Council to consider at application stage. It is considered that the omission at application stage of such evidence in relation to this appeal site, is a justified and reasonable reason for refusal. The Council's conclusion on this point was not unreasonable. Moreover, once the selection evidence was provided at appeal stage, the Council withdrew that reason for refusal. For these reasons, the two cases are not similar; the Council has not therefore determined similar cases in an inconsistent manner.
7. The appellant claims that the Council's reasons for refusal were unsubstantiated. The Council is bound to assess and determine every application on its own merits, and against policies of the development plan. It is considered that the Council clearly set out, in the Officer's report, the factors which led the Council to its conclusion. Furthermore, evidence has been provided to demonstrate that the Council communicated their position with the applicants prior to determination of the application.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and as such, an award of costs is not warranted.

N Kempton

INSPECTOR