



Costs Decision

Site visit made on 4 September 2023

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2023

Costs application in relation to Appeal Ref: APP/X1355/W/23/3323086 Land north west of Beamish Hall Hotel, Beamish DH9 0YB

- 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 Peter Conroy for a partial award of costs against Durham County Council.
 - The appeal was against the refusal of planning permission for the construction of 24no. Luxury Holiday Lodges, Reception Building and Associated Landscaping.
-

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 claim for a partial award of costs has been set out in writing and is made on both substantive and procedural grounds and is made with respect to unreasonable behaviour by the Council that has led to unnecessary expense. In summary, this firstly relates to the position that was accepted by the Council at pre-application stage and in its Committee Report that there is an undersupply of visitor accommodation to meet market demand and that there is an identified need for this type of visitor accommodation. This need had been identified by Visit County Durham (VCD) and they did not refer to the need being on a 'county-wide level'.
4. It was therefore surprising that the Council has stated in its Statement of Case (SoC) that the support can only be related to the visitor needs at a county level and that the weight of this broad benefit would not be considered to overcome the other relevant technical matters. These assertions are inaccurate and introduce a fresh position by the Council, which is intrinsic to the planning assessment of Policy 8(c) of the County Durham Plan 2020 (CDP). This has necessitated additional evidence to be produced by the applicant to substantiate the previously accepted position.
5. Secondly, the applicant considers that the Council has relied on vague, generalised or inaccurate assertions in relation to the proposed northern link to the Public Right of Way (PRoW). It is clear that no assessment or site visit has been undertaken to substantiate any concern that the Council may have in this respect and the figure produced is misleading as to the relationship between the site ownership boundary and the route and location of the PRoW. No regard has been paid to the blue line showing ownership on the location plan. This

approach too has necessitated additional evidence to be produced in the form of a Highways and Transportation Rebuttal Statement (HTRS).

6. In response, the Council sets out that the matter of need was for County Durham as a whole and that while the comments provided by VCD could be considered to form a material consideration in terms of commercial viability, this would not be sufficient to substantiate a local need specific to Beamish in the planning balance. The Council has clearly maintained a consistent position that the positive weight to be considered in the planning balance relates exclusively to the proposal's response to an identified need for visitor accommodation at a county-wide level and that this was ultimately outweighed in the planning balance.
7. In terms of the footpath and PRoW, a Council Officer did visit the appeal site to understand the site context and the implications of the reinstatement of the northern footpath by the applicant. The Council's position is maintained such that the new amendments to the scheme should not be accepted as part of the appeal. However, to ensure the Council's SoC was robust and directly relevant to the appeal submission, it was necessary to consider this element in detail and this included providing the indicative plan to assist in highlighting the perceived issues. Having reviewed the HTRS, it is considered that this indicative plan is clearly accurate.
8. I note that the pre-application advice report predates the adoption of the CDP and therefore does not refer to Policy 8. The Officer Report to Planning Committee sets out that it is accepted that there is a need for the type of visitor accommodation, but it is not entirely clear whether this relates to a county-wide need or to a need local to the area in which the appeal site is located. I have explained in my decision letter why I do not consider that the comments of VCD sufficiently support the proposition that there is a local need.
9. Nevertheless, reason for refusal one states that the application has failed to demonstrate that the proposed development is necessary to meet identified visitor need contrary to Policy 8(c) of the CDP. This absolute position is not one that the Council has sought to defend. In defending the appeal, the Council has accepted that there is a county-wide need for accommodation. As Policy 8(c) of the CDP does not require that the need is shown to be local rather than county-wide, the imposition of reason for refusal one was unreasonable. But on the question of whether the applicant has incurred unnecessary or wasted expense in the appeal process as a result of this unreasonableness, I find they have not.
10. This is because it is evident from the Committee minutes that the Principal Planning Officer clarified at the meeting that the need for accommodation was for County Durham as a whole. The applicant would have been aware of this having had representation at the meeting, and therefore it would not have been unexpected that the Council took the position it did in its SoC. The submission of the additional evidence by the applicant therefore served only to substantiate their own case and was not in response to a change in position on the Council's part on the matter of need during the appeal process.
11. In terms of the second matter, as the Council has pointed out, it objected to the submission at appeal stage of the amended details with respect to the connection to the PRoW to the north. The applicant had previously chosen to omit this connection, and that was the basis on which the planning application was determined. Far from acting unreasonably, the Council instead behaved in

a positive and proactive manner in seeking to convey its concerns about the matter which, with reference to Figure 1 in the HTRS, appear to be well founded. And in any event, the additional expense incurred by the applicant in addressing the footpath issue was brought upon by their own submission of an amended plan with the appeal. Therefore, there was no unreasonable behaviour by the Council with regard to the second matter that forms the basis of the costs application.

Conclusion

12. Whilst I have found that unreasonable behaviour occurred with respect to reason for refusal one, this did not result in unnecessary or wasted expense. Consequently, an award of costs is not warranted.

Graham Wraight

INSPECTOR