
Costs Decision

Site visit made on 29 September 2023

by Susan Hunt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th October 2023

Costs application in relation to Appeal Ref: APP/P2935/W/23/3327798 Land South of Broomhouse Lane, Prudhoe

- 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 Northumberland Estates for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for 63 no. dwellings with associated infrastructure and landscaping.
-

Decision

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

Reasons

2. The Planning Practice Guidance¹ 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. Unreasonable behaviour may be procedural or substantive.
3. The applicant's application refers to a number of matters which arose prior to the decision being made, including procedural errors at Planning Committees, resultant delays in the Council's decision, and lack of consideration to the applicant's briefing note. Matters relating to individual members of the Planning Committee do not have a material bearing on my decision, and should be taken up separately with the Council, but I have had regard to the context which led to the reasons for refusal. This is in terms of the officer's positive recommendations on two occasions of reporting to the Council's Planning Committee, as well as the detailed minutes which set out the updates made by officers and verbal presentations at the meeting. Such issues provide context to the Members' overturn of the officer recommendation but in themselves do not constitute unreasonable behaviour.
4. The first reason for refusal related to housing mix. As explained in my decision, Northumberland is a large and varied authority area where housing need varies greatly between both housing market areas and individual settlements. There is a limited evidence base for this particular reason for refusal, and the relevant policy is not prescriptive. Taking the case for Prudhoe, I was satisfied with the appellant's evidence and justification for the proposed housing mix. The reason for refusal was not adequately substantiated by the Council with any up-to-date evidence relating to Prudhoe in particular. It seems to me that the Council has

¹ Planning Practice Guidance note: Appeals – paragraph 030 (Reference ID: 16-030-20140306)

followed a reason for refusal which it has been unable to substantiate at appeal, and amounts to unreasonable behaviour.

5. I am mindful that the second reason for refusal is not on technical highway grounds, notwithstanding the large amount of public opposition in this respect. The Highway Authority are satisfied with the access arrangements subject to conditions. Rather, it relates to living conditions of local residents. Whilst the applicant disputes the minutes differing from the wording of the reason for refusal in terms of visual effects, I note that the reasons were delegated to officers for the final wording and that this is usual for overturned decisions.
6. The second reason for refusal is clear in that this includes visual impacts, but only from Tilley Crescent. Wider landscape and visual effects do not form part of the reasons for refusal. Nonetheless, this reason relates to a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view. It will be seen from my decision that I agree with the applicant that the proposals would not result in significant harm to living conditions, and I have imposed conditions which would assist in mitigating any effects. Notwithstanding my contrary decision, I find that the Council have adequately substantiated their reason for refusal in this respect against development plan policy and other material considerations and their behaviour is not unreasonable.
7. The third reason for refusal relates to a lack of information rather than any harm arising from a perceived lack of energy efficiency measures or an acceptable level of sustainable design and construction. It is unclear from the Planning Committee minutes why this matter became a reason for refusal. The Council's statement of case also fails to justify why the details of energy efficiency and sustainable design provided with the application could not be supplemented with the required further information via a planning condition. On this particular main issue, the Council has followed a reason for refusal which it has been unable to substantiate at appeal, and this amounts to unreasonable behaviour.
8. I turn to the matter of wasted expense. In lodging the appeal, and in responding to the Council's case, the applicant provided a detailed statement of case together with a response to the Council's statement. The submission is straightforward and is based primarily on the information already submitted to the Council as part of the application process and in preparation for the Planning Committee's considerations of the case. I am not persuaded that the statement to support the applicant's case for a written representations appeal would have result in any significant additional expense in providing the justification necessary for me to make an informed decision. Even if I am wrong in this, the extra work involved could be regarded as 'de minimis'. In effect, the applicant has quickly and easily rebutted the Council's position without wasting expense.
9. As a result, although I find that the Council acted unreasonably in their lack of substantiation of two of the reasons for refusal, this has not caused unnecessary or wasted expense. Therefore, no award of costs is made in this regard.

Susan Hunt

INSPECTOR