
Costs Decision

Site visit made on 26 September 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2023

Costs application in relation to Appeal Ref: APP/U2750/W/23/3325101 Land north of Cradock Row, east of the A167, Sandhutton

- 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 Harry Dee for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of Outline planning permission with all matters reserved except access, for 4no. dwellings, associated landscaping and the formation of vehicle access.
-

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 provided a thorough assessment of the character of the appeal site or how it contributes to the character of Sandhutton and consequently, how the proposal would have a significant detrimental impact on the village.
4. It is the applicant's case that the Council made inaccurate assertions about the outline proposal and its impact on the character of the village, which is unsupported by any objective analysis. It is claimed that there is no convincing evidence that the proposal would be contrary to Policy HG5(e) of the Hambleton Local Plan, 2022 and as a result, the Council has failed to substantiate its reason for refusal.
5. Reference has been made to previous appeal decisions¹ relating to land located on the opposite side of Cradock Row on the western side of the A167 where it was determined that residential development would not have a harmful effect on the character and appearance of the surrounding area. The applicant

¹ APP/G2713/W/21/3284541 and APP/G2713/W/22/3306331

considers that due weight has not been given to previous appeal decisions of a similar nature.

6. Additionally, the applicant claims that the Council did not communicate any concerns with the principle of residential development on the appeal site and that it would be determined within the agreed timescales. It is alleged that the case officer went on extended leave and therefore time delays were incurred. A new case officer was assigned and within a matter of days, it is claimed that the officer refused the application with little opportunity to liaise with the applicant.
7. The PPG advises behaviour that may give rise to a substantive award of costs including, amongst other matters; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
8. From the evidence before me, it is clear that the Council has provided sufficient reasoning relating to the concerns raised setting out clearly the policy background and how the site contributes to the setting of the village before detailing why the development would alter the character of the northern part of Sandhutton. It is not unreasonable for the Council to raise concerns about the impact of the proposed development on the character and appearance of the surrounding area. This informed its decision given the site context and relationship to the buildings further north and I do not find that inaccurate assertions about the proposal's impact have been made as this is indeed a matter of planning judgement.
9. The previous appeal decisions referred to were given due consideration which is referred to in the officer's report. Notwithstanding, it shall be seen from my main decision that the previous appeals referred to are not directly comparable and therefore not determinative.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in relation to the substantive matters of the appeal and that an award of costs is not justified.
11. While I appreciate the frustrations in relation to delays during the application, there is nothing to suggest that this affected the Council's decision to refuse the application. As such, it would have been necessary to submit an appeal in any event. PPG² is clear that costs awarded cannot be claimed for the period during the determination of the planning application. Consequently, this element of the appellants' submission is not eligible for an award of costs.
12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, an award of costs is not justified.

N Teasdale

INSPECTOR

² Paragraph ID: 16-033-20140306