The Planning Inspectorate

Costs Decision

Site visit made on 19 October 2023

by Elaine Gray MA, MSc, IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 November 2023

Costs application in relation to Appeal Ref: APP/P2935/C/23/3318978
Land on the south-west side of Moor Road, Prudhoe, Northumberland, NE42 5NX

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. Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal. In addition, Councils may be at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by relying on vague, generalised or inaccurate assertions about a development's impact, which are unsupported by any objective analysis.

4. Firstly, the appellant argues that the Council has not substantiated their objection to the unauthorised development insofar as they have failed to apply the proper tests in determining whether or not the stable is inappropriate development in the Green Belt.

5. Part of the Council's case is whether the use of the stable is commercial or private, or both. In addition, they have given consideration to whether the development is a reasonable requirement. As may be seen from my main decision, I have considered these matters and found that no such tests exist in the current development plan, or in the National Planning Policy Framework (NPPF) paragraphs on Green Belt development. In the absence of any direction from the Council as to where these tests may be found, I agree that this amounts to unreasonable behaviour on their part.

6. The appellant submitted with the appeal a number of other decisions relating to equine development that has been permitted within the same Council area. In light of these decisions, he argues that the Council have demonstrated inconsistency in their approach to the appeal scheme. I have taken these decisions into account, but I note that the majority pre-date the extant Northumberland Local Plan, which was adopted in March 2022. This significantly lessens the weight I can give them.

7. Only one decision, ref: 22/00756/FUL, was made after March 2022 in the context of the current development plan. This was for the construction of a riding menage for private use in the Green Belt. A menage is a different form of development to the building that is the subject of the main appeal, normally comprising an enclosed area of land. It was to be positioned adjacent to an existing stable block, where it would appear ancillary. On these details alone, it is apparent that that case is not directly comparable to the one before me. I therefore find no unreasonable behaviour on the part of the Council with regard to consistency of decision making.

8. The appellant cites the Council's reference to traffic movements as part of their objection to the appeal scheme. As may be seen from my main decision, I found that the Council produced little substantive evidence on this matter and did not satisfactorily explain how any additional traffic harms the Green Belt in this case. However, even though their comments are somewhat vague, this matter is not specifically referred to in the enforcement notice. As the case therefore does not turn on traffic or highways issues, this does not amount to unreasonable behaviour.

9. Turning to procedural issues, the appellant argues that the Council failed to meet the requirements of the appeal timetable. In particular, their statement of case was submitted after the date of 6 June 2023, which was given in the start letter from PINS dated 25 April 2023. From my own review of the email correspondence on this matter, it appears that the Council did request an extension for the appeal that is before me, but omitted to quote its reference number. Instead, they quoted the reference numbers of appeals on adjacent land that were subsequently withdrawn. This omission was unfortunately repeated by PINS in dealing with the matter.

10. I acknowledge the appellant's concern and frustration over this matter, and it is important for appeal timetables to be adhered to whenever possible. However, occasionally things do go wrong, and I do not consider that taking an overly rigid or punitive approach is productive or helpful to the process. I note that the Council's statement was received by the appellant a few days after the deadline, on 9 June 2023. Under these circumstances, I find no unreasonable behaviour on the part of the Council.

11. The appellant also voices concern that the Council did not fulfil its statutory function in relation to the notification of interested parties to the appeal. He states that this is not a sustainable position, given that the appeal was brought on ground (a), which is that planning permission should be granted. He cites the disputed highway impact of the development in particular in respect of this matter. However, the appellant does not specify the omissions from the notification process that he is concerned about, or explain how he has been led to unnecessary or wasted expense as a result of these omissions.

12. In summation, I have found that the Council have acted unreasonably by introducing planning tests that have no basis in the existing policy context. However, I am not convinced that unnecessary or wasted expense on the appellant's part has arisen as a result.

13. Ultimately, assessing the effect of a development on the Green Belt relies on the nature of the development and its context, and the application of the series of tests contained in the NPPF. Each step is a matter of planning judgement and professional opinion in light of the available evidence, which are often

found to differ without involving unreasonable behaviour. The appeal was therefore necessary in order to examine the issues at hand, and could not have been avoided.

Conclusion

14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, an award of costs is not justified.

Elaine Gray

INSPECTOR