



Costs Decision

Site visit made on 2 August 2023

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2023

Costs application in relation to Appeal Ref: APP/V0728/W/23/3319096 Land off Lingdale Road, Boosbeck, Cleveland

- 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 R Hunton for a full award of costs against Redcar and Cleveland Borough Council.
 - The appeal was against the refusal of planning permission for proposed dwelling.
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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.
3. The appellant sets out that the application for costs is made on the basis that the Council have based their opinion on incorrect facts that have been considered in making their decision. The applicant's case is that a) the site comprises brownfield (previously developed) land; and b) the site is not an isolated site in the countryside. It is submitted that in taking a contrary view on these matters, the Council have based their decision on inaccurate information.
4. With regard to whether the site comprises brownfield land, the applicant refers to the Council's Planning Strategy consultation response, quoted in the officer report, which refers to the site as greenfield land. However, this definition does not appear to form part of the consideration in the officer report or lend any meaningful weight to the officer's decision.
5. Given the lack of specific evidence to precisely ascertain whether the site does or does not comprise brownfield land, this is a matter of planning judgement and not a matter of fact. In any event, based on the evidence available to me, and as set out in my appeal decision, I do not consider it to comprise brownfield land.
6. The matter of whether the site comprises isolated development in the countryside is relevant to the interpretation of development plan policy. However, as set out in my appeal decision, there is no strict definition of what comprises such development. As such, this is also a matter of planning judgement, not a matter of fact.

7. Paragraph 047 of the PPG advises that local planning authorities are required to behave reasonably in relation to procedural matters at appeals, with examples of unreasonable behaviour which may result in an award of costs including providing information that is shown to be manifestly inaccurate or untrue. In this instance, I am satisfied that the matters in dispute were matters of planning judgement and would not amount to unreasonable behaviour on procedural grounds.
8. Paragraph 049 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, with examples of unreasonable behaviour including failing to produce evidence to substantiate each reason for refusal on appeal, or vague, generalised or inaccurate assertions about a proposal's impact. As set out above, the matters in dispute are matters of planning judgement and all matters addressed by the Council in refusing the planning application were adequately substantiated. No unreasonable behaviour has therefore been demonstrated in substantive terms.

Conclusion

9. Based on the information before me, I find no unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has been demonstrated, as set out in the PPG. The application for an award of costs is therefore refused.

P Storey

INSPECTOR