



Costs Decision

Hearing held on 8 November 2023

Site visit made on 8 November 2023

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2023

Costs application in relation to:

Appeal A Ref: APP/U2750/W/23/3324770

Killingbeck Farm, Red House Lane, Moor Monkton, York, YO26 8JF

Appeal B Ref: APP/U2750/W/23/3324769

Brecks Farm, Red House Lane, Moor Monkton, York, YO26 8JF

Appeal C Ref: APP/U2750/W/23/3324768

Red House Farm, Moor Monkton, York, YO26 8LA

- 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 George Roach (Oakland Farms Ltd) for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of planning permission for the erection of an agricultural workers dwelling and garage at each of the three farms.
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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 application for an award of costs is made on substantive grounds. It is argued that if the Council had proactively engaged with the applicant additional information could have been provided and the appeal avoided. The applicant also considers that the Council have not substantiated the reason for refusal relating to functional need and have not determined similar cases in a like manner. The PPG indicates that, in such circumstances, costs may be awarded against an authority.
4. The planning application for Red House Farm had 3 reasons for refusal and the other two applications had an additional reason for refusal relating to their location in the Green Belt. The reasons for refusal clearly set out the development plan policies and the parts of the *National Planning Policy Framework* to which the Council considered the scheme would be contrary.
5. The first reason for refusal relates to the fact that it had not been adequately demonstrated that there was a functional and financial need for a rural worker's dwelling on each of the farms. The Council's *Rural Worker's Dwelling Supplementary Planning Document (adopted June 2021)* (SPD) provides

detailed guidance for applicants on the information the Council require to be submitted in order to assess such applications.

6. In responding to the appeal, the Council has relied largely on the assessment set out in their officer's report produced when determining the application. This sets out, in a comprehensive manner, their reasoning for why they consider inadequate information had been provided to determine whether there was an established functional need for a dwelling and to show the business was financially sound. This is despite that fact that the enterprise had been established more than 3 years and the accounts show it has been profitable for at least one of them. Whilst the Council may not have employed a specialist agricultural consultant to assess the evidence the applicant had provided, there is no requirement for a Council to do this if they consider they have the necessary expertise and experience to assess the evidence themselves.
7. As detailed in my decisions, I have found that there is a functional need for a dwelling on each of the farms and that it has been demonstrated that the enterprise is financially sound. However, my conclusion in this regard is based on the evidence I ascertained at the hearing itself, not just in the written submission. This provided me with significantly more evidence on matters such as the nature of the operation, who would be living in the dwellings, and the kind of emergencies that can occur. It also provided a clear explanation as to why the profitability of the business had declined in the last 3 years.
8. This evidence was not available to the Council at the time they made their decision and would not have been available to an agricultural consultant either if they had utilised one. In responding to the costs claim the Council provided evidence to show that they had asked the applicant to provide additional information in line with what is set out in the SPD, but that this information was not provided. As a result, I do not consider it was unreasonable for the Council to conclude that it had not been adequately demonstrated that there was a functional need for a dwelling or that the financial test had not been passed.
9. I note the applicant's comments that a similar sized rural worker's dwelling was found to be acceptable on another farm in the district. Nonetheless, the Officer's report clearly sets out why the Council considers this case is not a direct parallel to the appeal schemes, and why they consider the size of the house is inappropriate in this case. Whilst the applicant may not agree with these conclusions this does not mean that the Council has acted unreasonably.
10. All in all, although in this case I have found against the Council, I am satisfied that they have met their obligation to give proper consideration to the planning application and have justified their approach.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus an award of costs is not justified.

Alison Partington

INSPECTOR