



Costs Decision

Site visit made on 3 January 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2024

Costs application in relation to Appeal Ref: APP/X1355/W/23/3324117 Land south of Sharon Avenue, Kelloe, Durham DH6 4NE

- 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. John Platts for a full award of costs against Durham County Council.
 - The appeal was against the refusal of planning permission for 7 no. holiday chalets, with cafe, seating area, new access, parking, landscaping and ancillary infrastructure.
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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, 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. PPG outlines 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, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. One example of such unreasonable behaviour is preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations.
4. PPG¹ advice is clear, however, that costs cannot be claimed for the period during the determination of the planning application. Nevertheless, behaviour and actions at the time of the planning application can be taken into account in my consideration of whether or not costs should be awarded in relation to the appeal itself.
5. The applicant is seeking a full award of costs on the basis that the previous application² on the appeal site should not have been refused. They state that the application was not considered properly or diligently by the Council, and they allege that the Council failed to take into account the social and economic benefits of the proposal within the overall planning balance. They also strongly refute the Council's findings that the proposed development would have a transformative and adverse impact on the landscape character of the site and area.

¹ Paragraph: 033 Reference ID: 16-033-20140306

² Planning Application Ref: DM/21/01698/FPA

6. They state that the refusal of this application led to the submission the current application³, which is the subject of this appeal, and the production of additional drawings to address the Council's reason for refusal. I note that the previous application⁴ was refused for similar reasons to the current application.
7. In determining this current application, the Council in its Officer's Report and Decision Notice has provided a clear reason for refusal, which has been expanded upon as part of the appeal process. The Council also states that if the appellant believed that the original application should not have been refused, there was an opportunity to appeal this decision at that time.
8. It is clear that there are some areas of dispute which relate to matters of planning judgement, including the effect of the proposed development on the landscape. However, the Council has confirmed that the additional information submitted in respect of the current application was assessed in consultation with the Council's landscape team and found to result in harm, sufficient to warrant refusal of the application. In response to the appeal, the Council has provided submissions to support this reason for refusal.
9. Therefore, whilst I recognise that the Council and the applicant have reached different conclusions based on the evidence before them, each party has provided some assessment on how these conclusions have been reached. Such disputes are common when applications are refused and there is often a difference of opinion on issues such as these.
10. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Lancaster

INSPECTOR

³ Planning Application Ref: DM/22/03740/FPA

⁴ Planning Application Ref: DM/21/01698/FPA