



Costs Decision

Site visit made on 9 April 2024

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 May 2024

Costs application in relation to Appeal Ref: APP/P2935/W/23/3335879 Westlea Bed and Breakfast, 29 Riverside Road, Alnmouth NE66 2SD

- 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 Paul Edwards for a full award of costs against Northumberland County Council.
- The appeal was against the refusal of planning permission for a new detached dwelling.

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 applicant is seeking a full award of costs and highlights both substantive and procedural issues. It is indicated that the Council acted unreasonably by overturning the officer recommendation that the scheme should be approved without substantiating the reasons for refusal and by attempting to introduce further issues at the appeal stage.
4. The proposal was recommended for approval in the officer report, however after discussion and debate it was refused at committee because in the committee's view the design, scale and massing of the proposal would not preserve or enhance the character and appearance of the Alnmouth Conservation Area (ACA) and would result in the loss of privacy for nearby occupiers. In doing so, it would be contrary to the provisions of Policies QOP1, ENV7 and ENV9 of the Northumberland Local Plan (2022).
5. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. The PPG makes it clear that a local planning authority is at risk of an award of costs if it makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
6. With regard to the first reason for refusal, in my view, the committee minutes are sufficiently detailed and explain the reasons why Members of the Council did not agree with the officer's assessment and came to a different conclusion. That is a matter of planning judgement, notwithstanding the officer recommendation. It seems to me that the committee had regard to the

representations made, the officer report and relevant planning policy and the reason for refusal is clear and sufficiently detailed.

7. Irrespective of the outcome of the planning balance exercise that was undertaken in the officer report and while the appellant may disagree with certain matters raised by Members of the Council, the first reason for refusal clearly identified the alleged harm arising from the development. No new information was provided during the appeal in relation to this main issue and the Council's submissions largely rely on the building conservation officer's conclusions on the proposal's effects on the ACA. Nevertheless, I am satisfied that the reason for refusal was adequately substantiated, clearly demonstrating on planning grounds why the proposal would be unacceptable in their view.
8. There is no such substantive evidence presented by the Council in addressing the second reason for refusal. The Council's written statement simply sets out that Members disagreed with the officer's assessment that separation distances between the proposed balcony and dwellings on Garden Terrace would be sufficient. This amounts to unreasonable behaviour. Nonetheless, given that there were two reasons for refusal, the appeal could not have been avoided and it is not clear that the applicant has incurred unnecessary or additional costs as a result.
9. The applicant also contends that the Council acted unreasonably by introducing further issues at the appeal stage in relation to the requirement for a planning obligation as mitigation for protected sites and to secure principal occupancy of the proposed dwelling. However, the requirement for such a planning obligation to make the proposed development acceptable could not have been a surprise to the appellant given the contents of the officer's report. Moreover, as stated by the applicant, they were in agreement with the requirement and willing to enter into such a planning obligation, demonstrating that they were aware of the need for a planning obligation.
10. The applicant had the opportunity to address the matter of a planning obligation in their appeal submissions, which do not have to solely relate to the reasons for refusal and can provide details of other matters pertinent to the case. Therefore, notwithstanding that the absence of a planning obligation was not a reason for refusal, further issues were not introduced by the Council at the appeal stage.

Conclusion

11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and I therefore conclude that the application for an award of costs is refused.

F Harrison

INSPECTOR