



Costs Decision

Site visit made on 4 July 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Costs application in relation to Appeal Ref: APP/X1355/W/24/3340335 Mill Byre, Road Leading To The Mill, Ingleton, Durham DL2 3HH

- 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 & Mrs Richard & Kate Hodgson for a full award of costs against Durham County Council.
 - The appeal was against the refusal of planning permission for change of use of an existing holiday to residential 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 PPG goes on to advise that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense. This could be the expense of the entire appeal or other proceeding or only for part of the process.
4. The applicant's claim concerns the substance of the appeal. The PPG provides examples of behaviour that may give rise to a substantive award of costs against a local planning authority, including preventing or delaying development which should clearly be permitted, and not determining similar cases in a consistent manner.
5. The applicant refers to a recent appeal decision at the nearby Mill Granary site, which involved similar considerations. Because the Mill Granary appeal was allowed, the applicant argues that the current appeal relates to a development that clearly should have been permitted. The applicant also alleges, in light of the conclusions reached by my colleague in determining the Mill Granary appeal, that the cases have not been determined in a consistent manner.
6. I note the Council's evidence questions some of the conclusions reached in the Mill Granary appeal decision. In my accompanying appeal decision, I have concluded that these disputed matters would not be determinative to the appeal, and accordingly I have not reached a view on them. Nevertheless, the Council has presented additional evidence to support its case in relation to these matters, beyond mere disagreement, which it is entitled to do. Thus, the

Council's position has been adequately substantiated in respect of this issue and does not constitute unreasonable behaviour.

7. Each case must be determined individually, considering the specific merits of the development in question. Although the Mill Granary site is near the appeal site and the appeals involve similar changes of use, there are subtle differences in the considerations attached to the appeals by virtue of their location and position in relation to neighbouring properties and services. Accordingly, it does not necessarily follow that the same conclusions should be reached in both cases.
8. Despite allowing the appeal and reaching a different conclusion than the Council, I found that the Council's case on the main issues was well-substantiated. The issues in dispute were finely balanced and the weight to be applied to the considerations was a matter of planning judgement. I am therefore satisfied that the Council's decision was made through proper and reasonable procedures.
9. Paragraph 049 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably, with examples of unreasonable behaviour including preventing or delaying development which should clearly be permitted, not determining similar cases in a consistent manner, or vague, generalised or inaccurate assertions about a proposal's impact. Although I disagreed with the Council's decision, I am satisfied that the PPG criteria for unreasonable behaviour has not been met and this has not resulted in unnecessary or wasted expense for the applicant.

Conclusion

10. 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