



Costs Decision

Site visit made on 16 July 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 August 2024

Costs application in relation to Appeal Ref: APP/P2935/W/24/3340789 Land north of 1 and 2 Front Street, Lyneburn Grange, Ellington

- 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 Dan Taylor for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for 1 no. 4 bedroom bungalow.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Costs are awarded when a party has behaved unreasonably and that unreasonable behaviour has caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Like the Council, I have concluded that the proposed development would harm the significance of heritage assets. This harm would result from the proposal's particular effects upon the appeal site within the assets' surroundings.
4. Even if the Council's particular assertions about the historical links between the appeal site and neighbouring land has been overstated and is not aligned with some principles established through caselaw, harm upon significance nevertheless would result. If the Council had not made those assertions, I find it very likely the effects upon heritage assets would still have been a concern of the Council and, in turn, a main issue for consideration in an appeal.
5. Similarly, even if the Council failed to differentiate the Framework's tests at paragraphs 208 and 209 and did not clearly articulate the breadth of the proposal's public benefits at the application stage, given all that is before me, I find the Council's objections to the development on heritage grounds would very likely have remained. In turn, the applicant's expenditure in the appeal process has been necessary.
6. The Council has exercised its planning judgement in regard to the effects of the development upon the character and appearance of the area and upon heritage assets in a reasonable way. That I have concluded harm would arise in these respects serves to demonstrate that they have adequately substantiated their objections to the proposal.
7. Consistency in decision making is important, and where a Council does not determine similar cases in a consistent manner this can amount to unreasonable behaviour. However, it is also well established that applications

should be considered on their own individual merits having regard to their particular circumstances.

8. As I have set out in my appeal decision, the dwellings at the rear of the Plough Inn are sited quite a considerable distance away from the pub and other historic core buildings, and certainly further than the Front Street Cottages are from the proposed siting of the dwelling before me. Given this, I do not find the effects of the appeal proposal and of the Plough Inn development are very comparable. The assessment of the effects of development proposals upon the character and appearance of the area and upon heritage assets are matters of judgement. Given this, that the Council have considered the proposal at the appeal site to result in effects upon the historic core of Ellington but not in the case of the Plough Inn, is not manifestly inconsistent in my view.
9. The planning history indicates to me that the Council have been identifying the heritage impacts of the development to be a key concern to them not only within the application which led to the appeal but the application prior to that. I fail to see that the applicant had no choice in whether to pursue the second application. The content of the Council's pre-application response longer ago has, therefore, not led to unnecessary or wasted expense in this appeal process.
10. I have concluded that the proposal conflicts with the development plan and would be inconsistent with advice within the Framework. It follows that the Council's actions have not prevented a development which, having regard to the development plan, national policy or material considerations, should clearly have been permitted.
11. Furthermore, the Planning Practice Guidance advises that where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs for unreasonable refusal of an application. It can be seen from my appeal decision and my findings on the main issues that these very circumstances apply in this case.
12. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred, and an award of costs is not warranted.

H Jones

INSPECTOR