



Costs Decision

Site visit made on 17 July 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2024

Costs application in relation to Appeal Ref: APP/P2935/W/24/3341614 2 Garden Cottage, Cresswell Village, Cresswell, Northumberland, NE61 5JU

- 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 Chris Longden for a full award of costs against Northumberland County Council.
- The appeal was against the refusal of planning permission for the erection of 1 no. self-build dwellinghouse (C3 Use).

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. A full award of costs is being sought on the basis that the council acted unreasonably by failing to substantiate the reasons for refusal of the application, failing to have regard to material considerations including the previous approval of planning permission and by publishing the third-party comments on the application without redacting potentially defamatory or inaccurate statements.
4. The appellant states that the application which is the subject of the appeal was submitted following the recent refusal to grant planning permission for similar developments on the same site and that it was accompanied by a detailed Planning Statement that sought to address the concerns raised in relation to the previous applications. In particular, the Appellant claims that in determining the application, which is the subject of this appeal, that the Council failed to provide substantive evidence to justify their first reason for refusal, which relates to the effect of the proposed development on the character and appearance of the area, including the village of Cresswell which the Council have identified as a non-designated heritage asset.
5. The Appellant also states that Council has failed to have proper regard to a previously granted planning permission¹ in 2009 for a very similar development on the site. The appellant claims that the circumstances of the site and surrounding area has not changed. However, the Council has confirmed that the previous approval, this was approved under now obsolete guidance (the Castle Morpeth District Local Plan and, at national level, the Planning Policy

¹ Application Ref: CM/20090275

Guidance Notes) and prior to Cresswell being recognised as a non-designated heritage asset. Whilst the Council accepts that wasn't explicitly stated within the officer report, the documents used to assess the application were set out clearly.

6. Therefore, whilst I accept that the Council could have made clear in the officer report the reasons as to why they do not consider the planning history of the site is a relevant factor which indicates that planning permission is granted, they are clear as to the reasons given for why the proposed development is not acceptable. Furthermore, given the recent planning history comprising two refused applications, the Council's position in relation to the non-designated heritage asset status and identified harm would not have come as a surprise to the appellant and/or their agent.
7. In my view, the Appellant would have been reasonably aware of the Council's position regarding the heritage status of the building as a consequence of the previous decision. Therefore, the Appellant had the opportunity to address the Council's concerns in the submission of the appeal proposals before me. Accordingly, I do not find that the Council acted unreasonably in maintaining its position that the proposed development would harm a non-designated heritage asset.
8. I have had regard to the Appellant's view that the Council should have taken a more positive approach in the determination of the planning application that reflects the presumption in favour of sustainable development as set out in the Framework and that the Officers' resistance to residential development of the site was unreasonable behaviour. However, the Officer Report clearly identifies that the development of the site for residential purposes would be acceptable provided that the development accords with the relevant policies of the Local Plan and the Framework, which it concluded it would not.
9. In these circumstances, I have no compelling evidence to suggest that the Council's approach was unreasonable in the consideration of the planning application. The principle of the residential development of the site was accepted by the Council but there were clear material considerations, including the effect on the non-designated heritage asset, which justified the Council's position in determining that planning permission should be refused. As seen from my decision, my view on this matter reflects that of the Council.
10. It is not disputed that it would be possible to address the second and third reasons for refusal through the submission of amended plans and a executed planning obligation. This is not disputed by either party. The Council is clear that these submissions were not sought on the basis that the application was unacceptable for other reasons and that the submission of this information would not have altered the outcome of the application. I also note that the Appellant has submitted, alongside the appeal a executed Unilateral Undertaking (UU) to address reason for refusal three. Therefore, whilst I have had regard to the Appellant's comments regarding the Council failing to act in a pro-active manner, for the reasons set out above, I find that the Council has not acted unreasonably.
11. In respect of the second reason for refusal, the appellant argues that the Council has behaved unreasonably by not informing the applicant of errors within the submitted drawings. This appears to have been brought to the

Council's attention by third parties. However, whilst I accept this could have been brought to the appellants attention earlier in the process, it is not the Council's responsibility to ensure the inaccuracy of the plans submitted.

12. Finally, in respect of the comments submitted in respect of the application/appeal, I note the applicant's concerns in regard to potentially defamatory and inaccurate statements; however, these are not matters for the appeal.
13. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

K Lancaster

INSPECTOR