The Planning Inspectorate

Costs Decision

Hearing held on 9 October 2024

Site visit made on 9 October 2024

by Peter Willows BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 December 2024

Costs application in relation to Appeal Refs APP/U2750/C/23/3334207, APP/U2750/C/23/3334208 & APP/U2750/W/24/3343211
Butterwick Alpaca Retreat, Boynton Lane, Butterwick YO17 6PS

- The application is made under the Town and Country Planning Act 1990, sections 78, 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by North Yorkshire Council for a partial award of costs against Mrs Anna Ramsey and Mr Christopher Ramsey.
- The appeals were against:
  (i) An enforcement notice alleging the siting and residential use of a mobile home.
  (ii) The refusal of planning permission for Change of use of land for alpaca trekking and visitor experience activities in conjunction with the agricultural enterprise, together with the erection of a general purpose open fronted agricultural barn to include the housing of livestock and the erection of a dog kennel (retrospective).

Decision

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

The costs application

2. The application concerns alleged unreasonable behaviour relating to procedural matters. It is said that the appellants provided a vast amount of evidence well after the relevant deadlines, some a matter of days before the hearing. Although some of that evidence was excluded by the planning inspector at the hearing, the Council nevertheless incurred unnecessary expense in assessing it prior to the hearing.

3. The appellants' criticisms of the enforcement notice should have been in their mind when they first assessed the appeals, rather than in response to the Hearing Advice Note issued by the planning inspector.

4. A lot of evidence emerged for the first time at the hearing rather than being provided earlier. This included details of livestock and the latest grazing agreement. These caused unnecessary delay and increased the length of the hearing.

The response on behalf of Mr and Mrs Ramsey

5. The late evidence was not vast, but boiled down to 3 things – letters of support, crime reference numbers and photographs of the site during a period of local flooding. It did not introduce new issues and some of it had only recently become available. As to the criticisms of the enforcement notice, this was in response to matters raised by the planning inspector. The Council itself had responded to those same matters.

Reasons

6. 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.

7. The photographs of the site were intended to show its condition during a particular period of local flooding. They could only have been taken at a particular point in time and it was not unreasonable for the appellants to submit them. Similarly, an email from the local MP supporting the development was not available within the prescribed deadlines for documents. I accepted both the photographs and the letter.

8. I could see no reason why other letters of support and crime reference numbers could not have been submitted earlier, and I did not accept them. However, the information submitted was not great in volume, was straightforward in nature and did not raise new issues. Consequently, I am not persuaded that the appellants acted unreasonably in asking me to accept them. The appellants accepted my decision on the matter and there was no protracted discussion regarding the late documents at the hearing.

9. At the hearing, the appellants provided a response to my question regarding whether an expired grazing agreement had been renewed. That was not unreasonable. One of the purposes of a hearing is to allow certain matters to be clarified, and it would not be desirable if responses were so constrained that no updated information on such a straightforward matter could be provided. There was no requirement for the appellants to provide details of the updated grazing agreement in advance of the hearing.

10. In an ideal World, the appellants might have raised the concerns regarding the enforcement notice at an earlier stage. However, I raised concerns in a note and subsequent letter in the run up to the hearing, and it is neither surprising nor unreasonable that this should have prompted further consideration of the matter from the appellants' representatives. Indeed, the Council itself responded in writing to my comments prior to the hearing, and some of the appellants' written comments were in response to what the Council had to say on the matter. The Council is critical of the length of the appellants' submission and the fact that it referred to the Planning Inspectorate's training manual. However, the responses were not excessive in my view. While I did not regard the extracts from the training manual as helpful, they related to the matter in hand and their inclusion was not unreasonable.

Conclusion

11. For the reasons given above I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. Accordingly, an award of costs is not warranted.

Peter Willows

INSPECTOR