Planning Inspectorate

Costs Decision

Hearing held on 7 January 2025

Site visit made on 7 January 2025

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2025

Costs application in relation to Appeal Ref: APP/P2935/W/24/3351301
Land North East of Throphill, Road To Throphill, Throphill Northumberland

- 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 John Charlton for a partial award of costs against Northumberland County Council.
- The appeal was against the refusal of planning permission for the creation of a new residential dwelling at Throphill Farm, along with associated hardstanding and landscaping works, to create a new farm worker's dwelling to support the existing farming operations at Throphill Farm.

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Mr John Charlton

2. The costs application was made orally at the Hearing, based on a written statement that was later received. The applicant is seeking a partial award of costs on substantive grounds with regard to the principle of the development set out in reason for refusal one on the decision notice.

3. It is claimed that the Council were unwilling to accept the professional advice from their independent consultant, gave weight to a recent planning permission for an agricultural building at Harnam Hall without discussing the matter with the applicant and incorrectly concluded that because the farming business is profitable this reduces the need for a rural worker's dwelling at the site.

4. In doing so, it is suggested that the Council made a decision at odds with the wording of Policy HOU8 of the Northumberland Local Plan 2016 – 2036 (2022) (NLP). It is alleged that the Council had agreed that the proposal met the criteria of Policy HOU8 and that the previous permission for a rural worker's dwelling at Throphill was now meeting the needs of another farm, and so the applicant contends it was readily apparent that a functional need had been demonstrated.

5. It is therefore suggested that the Council acted unreasonably by preventing development that should be clearly permitted, failing to provide substantiated evidence and relying on inaccurate assertions unsupported by objective analysis in relation to reason for refusal one. The applicant also alleges that the Council did not properly exercise their development management responsibilities by failing to provide the opportunity to submit additional information to amend the proposal prior to the determination of the planning application. The applicant's only option was to submit an appeal.

The response by Northumberland County Council

6. The response was made orally at the hearing. The Council stated that the information from the independent appraisal was taken into account but that they were entitled to disagree with its conclusions. Furthermore, the appraisal invited the Council to take into consideration that the farm has been successfully operated without the need for a dwelling, even having previously had permission for a rural worker's dwelling.

7. In addition, the Council set out that the Harnham Hall permission for an agricultural building was a factor in the consideration of the proposal as a relevant matter in the farm's wider planning history, albeit reference to the permission was not included on the decision notice. The Council set out that a consistent approach to the application of NLP Policy HOU8 was taken, but that they disagree with the applicant that the appeal site location would offer suitable visibility of the cattle to meet the operational needs of the farm.

8. The Council also explained that even if revised plans had been submitted before the decision was made, this would not have overcome the first reason for refusal regarding the principle of the proposal. As such, the Council had not wanted the applicant to go to unnecessary expense when the application would have been refused anyway.

The response by Mr John Charlton

9. The response was made orally at the hearing. The applicant highlighted that while the independent appraisal invited the Council to consider the successful operation of the farm without a rural worker's dwelling, this did not alter the overall conclusions of the appraisal that there was a clearly established existing functional need. It was also reiterated that the Council's assessment of the principle of the development should have been made on the wording of NLP Policy HOU8. If they had done so, in the applicant's view, the proposal should have been approved as it clearly met the requirements of this policy, as the Council's own independent consultant had concluded.

Reasons

10. 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.

11. 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. In coming to their view that a functional need for the proposal had not been demonstrated, the Council took account of other relevant considerations in relation to the planning history and operation of the farm business as a whole at both Harnham Hill and Throphill. To do so was not unreasonable behaviour. Neither are the Council duty bound to follow the professional advice of its independent consultant, who in any event had invited the Council to consider the farm's planning history in determining the functional need.

12. The matters at issue here concern the exercise of planning judgement and the apportionment of weight is a matter for the decision maker. Nevertheless, limited evidence was provided to substantiate the Council's view on these other considerations. Furthermore, it was not clearly articulated why the Council considered that the appeal site would not provide sufficient visibility of the farm buildings and the cattle. Despite the reason for refusal not including reference to the planning history or site location, in the absence of any detailed evidence, it was not adequately substantiated in an objective manner.

13. As set out in my decision, no further reasoning was provided by the Council at the Hearing to counter the applicant's explanation of the planning history of the farm or its operations. Indeed, it was clear from the discussions that the Council's assertions with regard to the operation of the farming business were inaccurate. There was also no detailed evidence provided at the Hearing by the Council to address the arguments advanced by the applicant that the appeal site was eminently suitable to meet the functional needs of the farm.

14. It would have been beneficial for the Council to have communicated their reasons for not offering the opportunity to submit a revised plan to the applicant prior to the issue of the decision. However, this is not in itself unreasonable behaviour and would not have prevented the appeal given that there were two reasons for refusal.

15. Overall, in the planning judgement, it appears to me that having regard to the provisions of the development plan, National Planning Policy Framework and other relevant considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour, and the applicant has been faced with the unnecessary expense of lodging the appeal.

Conclusion

16. For the reasons given above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the essential need for a full-time rural worker, necessary to meet the operational needs of a rural business, to live permanently at or near their place of work in the countryside, and a partial award of costs is therefore warranted.

Costs Order

17. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Northumberland County Council shall pay to Mr John Charlton, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

18. The applicant is now invited to submit to Northumberland County Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

F Harrison

INSPECTOR