
Costs Decision

Site visit made on 17 November 2015

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 December 2015

Costs application in relation to Appeal Ref: APP/H0738/W/15/3035802 Land off Wynyard Road, Wolviston, TS22 5LJ

- 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 G A Pearson for a full award of costs against Stockton-on-Tees Borough Council.
 - The appeal was against the refusal of planning permission for an outline application with all matters reserved except for access for the erection of a single dwelling on land to the north of Wynyard Road.
-

Decision

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

Reasons

2. Planning Policy Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. The appellant's application for costs relies on whether the Council acted unreasonably and whether they are able to produce evidence to support/rationalise their reason for refusing the original application, thus causing the appellant to incur unnecessary costs to progress the appeal.
 4. The appellant considers that the Council has not provided substantive evidence to state what the adverse impacts are which significantly and demonstrably outweigh the benefits of the development as required by paragraph 14 of the National Planning Policy Framework (the Framework) in the context of a lack of a five year supply of deliverable housing sites.
 5. The appellant also considers that there is inconsistency relating to this reason for refusal due to the different view points of the Historic Buildings Officer and the Highways, Transport and Environment Manager.
 6. The Council's delegated report dated 27 April 2015 sets out the Council's consideration of the application. The report defines the existing character of the area, reinforced by comments from the Highways, Transport and Environment Manager from a landscape perspective. It then goes onto assess the impact of the proposal on the character of the area concluding that the proposal would stand as an isolated dwelling within this field and the wider
-

- area beyond and as a consequence the proposal would erode the open rural character and harm the character of the area.
7. I consider that the Historic Buildings Officer and Highways, Transport and Environment Manager were entitled to reach different conclusions as they were assessing the proposal from their own professional view point. Whether the proposal would affect the setting of the Conservation Area is a different assessment to the potential impact of the proposal on the wider landscape/countryside. The planning officer took account of the comments of those and other consultees in making a planning judgement and reaching a conclusion.
 8. The delegated report clearly makes reference to paragraph 14 of the Framework including the presumption in favour of sustainable development. It also specifically acknowledges that it does not have a five year supply of housing and that this renders its housing supply policies out of date, including the element of Policy EN13 of the Local Plan relating to limits to development. It also explicitly refers to previous appeal decisions in relation to similar proposals.
 9. The Council acknowledged some benefits of the proposal in that it would be situated in a sustainable location and that residents would have access to services and facilities. Whilst not explicitly referring to paragraph 14 in drawing conclusions, the Council, nevertheless clearly define the adverse impacts of the proposal and conclude that the proposal would have a detrimental impact on the character and appearance of the surrounding countryside. In doing so, they have defined the significant and demonstrable harm required by paragraph 14.
 10. Whilst I appreciate that the outcome of the application will have been a disappointment to the appellant, the Local Planning Authority were not unreasonable in coming to that decision and indeed following consideration of the application on its merits alone, I have concurred with the Council. I have found that the harm significantly and demonstrably outweighed the benefits of the proposal.
 11. The Council considered that the proposal would set an undesirable precedent for similar developments. I acknowledge that had the Council been relying on this as a separate reason for refusal, this would not have been a very persuasive point, but they were not. So in the context of the case it did not unduly affect the Council's decision and hence the need for appeal.
 12. I, therefore, conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason and having regard to all other matters raised, an award of costs is, therefore, not justified.

Caroline Mulloy

INSPECTOR