
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: 30 December 2015

Costs application in relation to Appeal Ref: APP/H0738/W/15/3132982 Land off Mill Lane, Wolviston, Billingham, Stockton-on-Tees TS22 5LH

- 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 Neil Kerr for a full award of costs against Stockton-on-Tees Borough Council.
 - The appeal was against the refusal of planning permission for outline planning application for a detached single storey dwelling and detached garage.
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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 appellants application for costs relies on whether the Council acted reasonably and whether they are able to produce evidence to support/rationalise their reason for refusing the original application.
 4. Specifically 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 Council's delegated report of 27 July 2015 sets out the Council's consideration of the application. The report defines the character of the area, informed by the comments of 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 be at odds with the rural character. The officer made a planning judgement and it will be seen from my decision that I agreed with the officer and that there were sufficient grounds for refusing planning permission on grounds of character and appearance. It follows that I am satisfied that the Council has shown that it was able to substantiate the reasons for refusal.
 6. The delegated report clearly refers to paragraph 14 of the Framework including the presumption in favour of development. It also clearly acknowledges that it does not have a five year supply of deliverable housing sites and that this
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renders it's housing supply policies out of date, including the element of Policy EN13 of the Local Plan relating to the limits to development. It also explicitly refers to previous appeal decisions in relation to similar proposals.

7. The Council acknowledged some benefits of the proposal in that it would be located in a sustainable location and that prospective 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 impact of the proposal and conclude that the proposal would have a detrimental impact on the character and appearance of the area. In doing so, they have defined the significant and demonstrable harm required by paragraph 14.
8. 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 reaching that decision and indeed following consideration of the application on its merits alone, I have concurred with the Council.
9. 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.
10. 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