

Costs Decision

Site visit made on 5 December 2016

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 15 December 2016

Costs application in relation to Appeal Ref: APP/E0915/W/16/3158797 Former Hotel, Talkin Tarn, Brampton, Cumbria CA8 1LS

- 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 Carlisle City Council for a full award of costs against Citadel Estates Ltd.
 - The appeal was against the refusal of grant subject to conditions of planning permission for conversion of former hotel to provide 6 2-bedroom apartments and re-configuration of redundant outbuildings to form 12 2-bed apartments including 4 new-build apartments. The proposals also include a comprehensive landscape design, altered vehicular access and parking arrangements.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and where that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. Paragraph 011 of the PPG states that applicants should give consideration to the merits of the case, and whether there are strong grounds to contest the conditions or reasons for refusal of planning permission before submitting an appeal. Parties who pursue an appeal unreasonably without sound grounds for appeal may have an award of costs made against them.
 4. Paragraph 052 of the PPG sets out examples of the types of behaviour that may give rise to a procedural award against an appellant, and paragraph 053 addresses the type of behaviour that may give rise to a substantive award against the appellant.
 5. The Council states that the appellant's position in relation to the commencement of the previous 2006 planning permission for eight units is manifestly inaccurate. However, the PPG states that information must be shown to be inaccurate. I note the difference of opinion between the parties on this matter. However, whilst it is clear that the scheme for eight units was not completed, there is insufficient evidence before me to determine whether or not it was commenced. I therefore find no unreasonable behaviour on the part of the appellant.
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6. With regard to the substance of the case, the Council is concerned that the appellant has failed to follow or refer to the guidance contained in the Historic England (formerly English Heritage) document entitled 'Enabling Development and the Conservation of Significant Places' (September 2008), and the policies relating to enabling development. However, as may be seen from my decision, I am satisfied that the appellant did not intend for the scheme to be considered as 'pure' enabling development, and therefore did not follow the full criteria and processes, as set out by Historic England and the relevant local policies.
7. The Council raises issues over the adequacy of the appellant's evidence and their adherence to policies. Whilst the parties disagree over many of the issues raised, it is apparent that the appellant has submitted detailed supporting evidence and arguments in respect of their case. Whilst the Council may not accept the appellant's position for the reasons they state, I do not find that the appellant has behaved unreasonably with regard to the substance of the case.
8. For the reasons above, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. Therefore, no award is made.

Elaine Gray

INSPECTOR