
Costs Decision

Site visit made on 13 February 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 1st March 2017

**Costs application in relation to Appeal Ref: APP/P2935/W/16/3164412
Land west of Lightwater Cottages, Hexham, Northumberland
Grid Ref Easting: 396146, Grid Ref Northing: 560279**

- 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 Gavin Hall for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission for conversion of former worker's cottage/workshop to holiday accommodation.
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Decision

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

Reasons

2. Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and has thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. Paragraph 49 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples of this cited by the applicant include:
 - preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - failure to produce evidence to substantiate each reason for refusal on appeal; and
 - vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
 4. The Council's reason for refusal set out in the decision notice states that the appeal property is not of substantial construction and that considerable works would be required in order to provide a suitable level of domestic accommodation, and goes on to state that the application would represent inappropriate development in the Green Belt.
 5. The planning application was supported by a structural report and scope of works produced by a Chartered Engineer and a Chartered Architect respectively. I have no evidence that the Council sought its own specialist
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advice to aid an assessment of the structural integrity of the building or to check the legitimacy of the two aforementioned reports. It is also apparent that the Council's Planning Officer did not even carry out an internal inspection of the appeal property in order to assess its construction. Rather, in an email of 15 June 2016 the Council's Planning Officer stated that the Council's assessment was based upon an evaluation of the submitted reports and photographs and on experience of dealing with applications relating to similar buildings of this type.

6. I find the Council's approach to the assessment of the scheme falls well short of showing that the building is not of substantial construction and not capable of conversion without major or complete reconstruction. The applicant's evidence has not been challenged by any objective inspection or analysis and I have not been referred to any examples of similar buildings that may have shown this building could not be converted.
7. The Council's reason for refusal was based upon an inaccurate assertion that was not backed up by substantiated evidence at appeal. Consequently, I find that this behaviour prevented development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
8. It is acknowledged that the applicant's appeal form indicated that he did not intend to apply for costs against the Council. However, in written representations appeals such as this, the deadline for submitting a costs application is the date by which final comments from each side should be received. In this case that was 31 January 2017. The applicant's costs application was made by letter dated 26 January 2017 and so it was made in a timely manner. Moreover, the stance taken by a local planning authority on being challenged at appeal and the extent or structure of its evidence should not be dependent on the threat of a costs application.
9. I have found that the proposed development would not be inappropriate development in the Green Belt and would therefore not harm the Green Belt by definition. As such, there was no need to consider the weight to be attached to other considerations to see whether they clearly outweighed any Green Belt harm, and any other harm, in order to arrive at the very special circumstances needed to justify the development. Given the applicant's position on the suitability of the building for re-use there was no need for the applicant to do this either.

Conclusion

10. All in all I find that unreasonable behaviour by the Council resulting in unnecessary and wasted expense as described in the PPG has been demonstrated, and that an award of costs is justified.

Costs Order

11. 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 Gavin Hall, 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.

12. 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.

CL Humphrey

INSPECTOR