



Costs Decision

Site visit made on 12 November 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 19 December 2019

Costs application in relation to Appeal Ref: APP/C9499/W/19/3235925 Hawes Methodist Church, Main Street, Hawes DL8 3QW

- 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 Matthew and Sally Faulkes; Ian Morton; and Heritage Apartments Ltd for a full award of costs against Yorkshire Dales National Park Authority.
 - The appeal was against the refusal of planning permission for the change of use and conversion of church and Sunday School (Use Class D1) to three apartments and two cottages for holiday let accommodation (Use Class C3).
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Decision

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

Reasons

2. Planning Policy Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Applications for an award of costs against a local planning authority may be substantive, relating to the planning merits of the appeal, or procedural, relating to the appeal process. The appellants' claim is made on both substantive and procedural grounds.
4. The development plan¹ (YDLP) policies relied upon in the Council's refusal reason are described by the appellants as being 'strategic' policies which do not refer to the Council's concerns as set out in the refusal reason. Whilst I have some sympathy with this argument in respect of YDLP policy SP1, I accept the Council's argument regarding YDLP policy SP4 and it is clear that it is a broad development management policy against which all development proposals will be assessed.
5. For the reasons I have set out in my decision on the planning merits of the proposal, I have concluded that the proposal is in conflict with YDLP policy SP4, specifically criterion (n) and (p) and that the appeal should be dismissed. In so concluding, I am satisfied that the appeal proposal can be appropriately considered against the provisions of YDLP policy SP4 and that there is a clear policy basis for the decision reached by the Council.

¹ Yorkshire Dales National Park Local Plan 2015 - 2030

6. I accept that the officer report to the Committee sets out areas in which officers considered that the appeal proposal complied with the provisions of the YDLP, including policies SP1 and SP4. However, the Council are not duty bound to follow the advice of its professional officers but, if a different decision is reached, it is incumbent upon the Council to clearly demonstrate on planning grounds why a proposal is unacceptable. For the reasons set out in my decision I am satisfied that the Council have done so and that, in reaching the conclusion that they did, the Council members duly and clearly considered these planning grounds. On substantive grounds, I am therefore satisfied that the Council did not act unreasonably in assessing the proposal against the provisions of YDLP policy SP4.
7. With regard to the application for an award of costs on procedural grounds, the Guidance provides examples² of unreasonable behaviour by local planning authorities which may result in an award of costs. The Guidance is also clear that local planning authorities are required to behave reasonably in relation to procedural matters at the appeal by, for example, complying with the requirements and deadlines of the process.
8. The appellants' application in this respect is made on the basis that Council members did not act in accordance with their code of conduct during their consideration of the application and did not approach the application in a fair-minded manner. However, these factors relate to the Council's handling of the application, not the appeal itself and I have not received any submissions suggesting that the Council have not complied with the requirements and deadlines of the appeal.
9. I have noted both the content of the minutes of the Committee meetings at which the application was considered regarding declarations of interest from committee members and the content of the appellants' 'First Advice' in respect of the Council's handling of the application. However, the matter of the Council's legal advice provided to committee members regarding declarations of interests is not before me, nor is it a matter that falls to me to consider under the terms of an application for an award of costs. There are other channels available to the appellants to more appropriately pursue these concerns and so I conclude that they do not demonstrate unreasonable behaviour by the Council on procedural grounds.
10. It will be seen from my decision that I agree with the Council and that there were sufficient grounds, and a sufficient policy basis, for refusing planning permission. Nor, for the reasons set out above, have the Council acted unreasonably on procedural grounds. As such there can be no question that the appellants have been put to unnecessary or wasted expense.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated on either substantive or procedural grounds.

Graeme Robbie

INSPECTOR

² Paragraph: 047 Reference ID: 16-047-20140306