



Costs Decision

Site visit made on 27 January 2020

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2020

Costs application in relation to Appeal Ref: APP/Y2736/W/19/3237018 Malt Shovel Public House, Main Street, Hovingham YO62 4LF

- 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 Punch Partnerships (PML) Limited for a full award of costs against Ryedale District Council.
 - The appeal was against the refusal of planning permission for development described as "Erection of 2 no. three bedroom semi-detached dwellings with shared access through the car park to serve both the retained public house and proposed dwellings".
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant states that there was unreasonable behaviour as the Council prevented development which clearly should have been permitted; failed to produce evidence to substantiate each reason for refusal; and provided inaccurate assertions about the proposals impact.
4. The Council insisted that the proposal would result in the reduction of off-street parking whilst the appellant contended that the appeal site was not available for parking. From the evidence provided, I accept that the appeal site is under separate ownership from the public house (previously the Malt Shovel public house and now the Hovingham Inn). However, nothing has been submitted to convince me that the appeal site has undergone a change of use and therefore the site would still constitute a car parking use. The Council have not acted inappropriately in considering the proposal to result in the loss of off-street parking.
5. The appellant submitted a car parking survey which the Council and Highways Authority considered to be lacking in evidence. Whilst I came to a different conclusion, it is the Council's and Highways Authority's prerogative as professional officers to assess the submitted evidence and make their own decisions. The Council and Highways Authority had reached a conclusion that the car parking survey was lacking certain data and required further information. The Council nor the Highways Authority have acted unreasonable in this regard.

6. It will be seen from my decision that I consider the main issues of the proposal to be in accordance with the relevant policies in the development plan. Some of these issues, including character and appearance and effect on the Conservation Area, are subjective in matter and the Council's officer report and statement of case clearly discuss why they consider the proposals are unacceptable in relation to the development plan. I am therefore satisfied that the Council have not acted unreasonably and has shown that it was able to substantiate its reason for refusal 02.
7. Refusal reason 3 relates to the effect the proposal has on the viability of the public house as a protected community facility. The Council have not provided any substantial evidence to demonstrate that the proposed development would have a harmful effect on the viability of the public house. Whilst the Council may have acted unreasonable in this instance, this matter would not have prevented the submission of an appeal. Given my findings on the appeal decision I also find that the appellant has not incurred any additional expense as a result of this.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Chris Baxter

INSPECTOR