
Costs Decision

Site visit made on 11 March 2020

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 April 2020

Costs application in relation to Appeal Ref: APP/X4725/W/19/3235581 Land adjacent to Sandal Grange Farm, Walton Lane, Wakefield WF2 6NG

- 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 and Mrs C Barrett for a full award of costs against City of Wakefield Metropolitan District Council.
 - The appeal was against the refusal of planning permission for 1 dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance ('PPG') 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. Although the PPG states that behaviour and actions at the time of the planning application can be considered in the Inspector's consideration of whether or not costs should be awarded, it makes clear that costs can only be awarded in relation to unnecessary or wasted expense at the appeal, during the process by which the Inspector's decision is reached.
3. Dealing with the paragraph 79 matter first, the Council's approach in the committee report clearly states that established case law was not accepted as a '*complete and comprehensive interpretation*'. The appellant contends it is '*clear from the Planning Officers report that he has still failed to grasp the concept, the report is incoherent on the point and flies in the face of well-established case law*'. However, on my reading this is somewhat selective because despite giving reasons why it may not be considered as isolated, it is clearly stated in the committee report that '*for the purposes of this report, it has been assumed that the development plot is isolated and that therefore the additional development restraint policy set out at paragraph 79 of the NPPF applies*'.
4. The Council then go on to consider the Green Belt issues, quality of design and conclude that it fails the second limb of paragraph 79 e). Whilst there is also considerable detail within the report about the interplay between different elements of the Framework, ultimately the Council also correctly accepted that the definition of very special circumstances is broad and that other

considerations could include design quality and sustainable credentials of the development¹. The report then states:

'it is considered that there is no reasonable basis to come to the conclusion that the development's potential harm to the Green Belt, and the other harm which would result from the proposal, is clearly outweighed by other considerations. It is therefore concluded that very special circumstances do not exist and that consequently the proposal is contrary to the Local and National Policy of Green Belt Development Restraint and is unacceptable in principle'.....

Despite some unnecessarily lengthy and sometimes difficult to follow reasoning to get to this point, this does not suggest unreasonable behaviour.

5. Turning to the consideration of heritage effects, whilst I appreciate that the appellant does not agree with the Council's consideration and opinions relating to the effects the appeal proposal is a subjective and equivocal design that requires complex and competing policy considerations and judgments to be balanced and resolved. The Council considered the proposal to result in substantial harm to the setting of Sandal Grange Farm and whilst I have agreed with the appellant that the harm would be less than substantial, the PPG is clear that this is a judgment for the decision maker. Although I have been referred in this application to a letter at appendix 2 to the appeal statement, those appendices I have been provided with make no reference to heritage matters. I do not find it unreasonable that the Council considered the harm to be serious enough to amount to substantial and they adequately set out their reasons for doing so.
6. The reference to harm is harm could also be interpreted in terms of paragraph 193 of the Framework which states great weight should be given to an assets conservation irrespective of whether it amounts to substantial or less than substantial harm. Ultimately, I cannot be certain what was meant and was not party to any of the meetings or discussions that took place, but the view on heritage effects was also reached in consultation with the Council's specialist heritage adviser. The Council's appeal statement² also confirms that the additional heritage documents the appellant contends would have led the Council to reach a different decision, would not have changed their views. Whilst this may be an expected response nothing substantive in that report indicates to me that had they agreed with the appellant the harm was less than substantial harm, that a different recommendation and decision would have been made.
7. The appellant's frustrations with the Councils administration and determination of the appeal are obvious throughout the appeal submissions but ultimately the Council's reasons for refusal as set out in the decision notice are complete, specific and relevant to the application. They also clearly state the policies of the development plan that the proposal would conflict with and I do not find that overall, they are *'ill founded'* or *'unreasonable in all respects'* as the appellant contends. Furthermore, the reasons have been clarified and substantiated in the Council's statement.

¹ Section 8.2 9th para. of officer report.

² Paragraph 10.3.7.

8. I accept there may well be frustrations with the overall handling and determination of the application but overall, this appears to me to be a case where the applicant's team of professional advisers had simply been unable to persuade the Council to agree with their opinions. Moreover, that the other considerations put forward amounted to the very special circumstances necessary to justify the proposal given the Green Belt designation. In my view, the Council did not prevent or delay development which should clearly be permitted and given the Council's conclusions, which I am satisfied were adequately reached in the end and have been substantiated, an appeal was inevitable.
9. The fact that suggested conditions were not submitted is not entirely helpful but it is not unreasonable and a reason was given. Had I been minded to allow the appeal I would have also requested the conditions from the Council and if any were worded as pre-commencement conditions, the approval of the applicant would have been required in writing.
10. For the reasons given above, I find that unreasonable behaviour in procedural or substantive terms resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, an award of costs is not justified.

Richard Aston

INSPECTOR