



Costs Decision

Site visit made on 23 June 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2020

Costs application in relation to Appeal Ref: APP/C2741/W/20/3248105 Acomb Grange, Grange Lane, Rufforth, York YO23 3QZ

- 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 Peter Brown for a full award of costs against City of York Council.
 - The appeal was against the refusal of planning permission for change of use of former stable block to 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 costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The PPG sets out the type of behaviour that may give rise to a substantive award against a local planning authority (LPA) and includes situations where an LPA has prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. Other examples include where vague, generalised or inaccurate assertions about a proposal's impact are made which are unsupported by any objective analysis and where planning permission is refused on a planning ground capable of being dealt with by conditions. Types of behaviour that may give rise to a procedural award against an LPA include where there has been a lack of co-operation with the other party.
4. The appellant claims that the appeal could have been avoided if the Council had engaged in discussions. The Council set out its concerns prior to determination of the planning application and the appellant sought to address the matters raised through a supplementary statement. This helped to clarify that suitable private outdoor space could be provided and this is reflected in the Council's delegated report which also acknowledges suitable boundary treatments could be conditioned.
5. However, the Council also set out its concerns that the building would not provide suitable internal living conditions for future occupants of a dwelling. The Council made it clear that this was a matter that was likely to lead to refusal of the planning application and that it could not be overcome by conditions. In the circumstances the appellant could have provided detailed

internal layout and elevation drawings in an attempt to overcome the concerns raised. The supplementary statement only confirmed that additional windows would be provided but did not demonstrate that the size, position and glazing type utilised would provide suitable means of outlook and privacy to all main habitable rooms. I do not consider it was incumbent on the Council to repeat their view that conditions would not be appropriate.

6. Given the specific constraints of the appeal site, I too have found that conditions would not provide sufficient certainty that suitable internal living conditions could be provided. For this reason, the principle of a change of use is not distinguishable from the operational development required to ensure suitable living conditions would be provided in this particular instance.
7. The appellant suggests that the Council did not appropriately assess Acomb Grange as a heritage asset, does not take account of the amenity value of its wooded surroundings and rural setting and misrepresents their response to the Drainage Board's request for a condition to be attached. The Council did not refuse the planning application on these specific matters and they do not detract from the Council's predominant concern relating to internal living conditions.
8. To conclude, I find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

M Russell

INSPECTOR