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## Costs Decisions

Hearing Held on 9- 11 March and 21 April 2021

Site visit made on 12 March 2021

**by L Nurser BA (Hons) Dip UP MRTPI**

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

**Decision date: 17 June 2021**

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### **Costs application in relation to Appeal Ref: APP/R1038/Y/20/3245986 Renishaw Hall, Renishaw Park, Renishaw, Sheffield, S21 3WB**

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
  - The application is made by W Gratton and Sons for a full award of costs against North East Derbyshire District Council.
  - The hearing was against the refusal of the Council listed building consent for Conversion of Traditional Buildings to B1(a) Office Use, A3 Café; Conversion of Farm Building to B1(c) Joiners Workshop; Demolition of Existing Agricultural Buildings and the Provision of Car Parking.
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### **Costs application in relation to Appeal Ref: APP/R1038/W/3245986 Renishaw Hall, Renishaw Park, Sheffield, S21 3WB**

- 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 W Gratton and Sons for a full award of costs against North East Derbyshire District Council.
  - The hearing was in connection with an appeal against the refusal of planning permission for Conversion of Traditional Buildings to B1(a) Office Use, A3 Café; Conversion of Farm Building to B1(c) Joiners Workshop; Demolition of Existing Agricultural Buildings and the Provision of Car Parking.
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## **Decision**

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

### **The submissions for W Gratton and Sons**

2. The costs application was made in writing. The main points are summarised as follows:
3. Firstly, the Council behaved unreasonably by not consulting the Gardens Trust on impacts to the Grade II\* Registered Park and Garden. This resulted in an adjournment to the hearing, with additional expense to the appellant as a result of the need to take time off work and the cost of employing their professional adviser for another day.
4. Secondly, the Council behaved unreasonably by not making clear that the viability of the farm was not a substantive element of the definition of the success of the business. This led to wasted expense by W Gratton & Sons in retaining specialist viability consultants.

5. Thirdly, that the Council acted unreasonably by not uploading all the appeal documentation in a timely manner. This led to the W Gratton and Sons relying on communication with the relevant case officer at the Planning Inspectorate.

### **The response by North East Derbyshire District Council**

6. A written response was provided by the Council at the hearing. The main points are summarised as follows:
7. The Planning Practice Guidance make clear that parties in planning appeals normally met their own expenses.
8. The Gardens Trust were consulted at the request of the Inspector. The response of the Gardens Trust was communicated to the parties and did not impact on the hearings. W Gratton and Sons professional adviser had nothing substantive to say on the matter during following the resumption of the hearing.
9. The Council had not raised viability as an issue. Moreover, it was open to W Gratton and Sons to liaise with the Council's officers prior to making their case in the lead up to, and during the hearings.
10. No evidence has been put forward of how any potential issues with accessing documentation relating to the appeals resulted in wasted expense. Moreover, documentation should have been relayed via the Planning Inspectorate.

### **Reasons**

11. The Planning Practice Guidance (PPG) 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.
12. I am aware of concerns raised by W Gratton and Sons in relation to how the Council's officers communicated and liaised with them, particularly as they were supporting the Council's case. Whilst it would have been in both the Council's and W Gratton and Sons interests to have worked closely together, and to have shared information, I do not consider that the Council acted in an unreasonable manner, or that its behaviour, including the speed at which documentation appeared on its website, resulted in unnecessary or wasted expense in relation to the case put forward by W Gratton and Sons.
13. W Gratton and Sons were an interested party to the appeal. However, they were not a Rule 6 party. Consequently, Paragraph 56 of the PPG is clear that it is not anticipated that awards of costs will be made in favour of other interested parties, other than in exceptional circumstances. Such circumstances include procedural grounds.
14. There is a statutory obligation for the Council to have consulted the Gardens Trust. As such, the fact that I requested that the Council undertake the consultation, does not mean that the Council had not made a procedural error. Whilst the response made by the Gardens Trust did not open up additional areas of discussion at the resumed hearing, it did mean that the hearing could not be completed within the March sittings. Given the significance of the appeal proposals to W Gratton and Sons, it is not unreasonable that they be represented at, and attend the hearing until its close. Consequently, I conclude

as there was a procedural error in not consulting the Gardens Trust, which then resulted in the hearing being adjourned and resumed on another day that unreasonable behaviour has occurred which directly resulted in unnecessary expense.

15. I conclude that a partial award of costs is justified, in respect of the costs incurred by W Gratton and Sons in respect of the costs involved in the attendance at the last day of the hearing.

**Costs Order**

16. 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 North East Derbyshire Council shall pay to W Gratton and Sons, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the attendance at the hearing on 21 April 2021; such costs to be assessed in the Senior Courts Costs Office if not agreed. The applicant is now invited to submit to North East Derbyshire 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.

*L Nurser BA(Hons) Dip UP MRTPI*

INSPECTOR