



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

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 Mrs A Hayward 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 Mrs A Hayward 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 a full award of costs is refused.

The submissions for Mrs A Hayward

2. The costs application was made in writing. The main points are summarised as follows:
3. The Council failed to substantiate its reasons for refusal. Moreover, the professional opinion of the Council's representative at the Hearing, who is the Planning Manager (Development Management), remained that the proposals should be allowed. Moreover, no further evidence was provided which would support the Council's reasons for refusal with reference to the urbanisation of the site, the impact on the openness of the Green Belt and why the benefits of the scheme do not represent very special circumstances, nor how the proposal would unacceptably impact on the existing farming enterprise.

4. Similarly, there were vague, generalised, and inaccurate assertions about the proposed development's impact which were not supported by objective analysis.
5. Members need not agree with the recommendation within the Officer's Report. However, in the absence of evidence or objective analysis, the Council must substantiate its reasons for refusal and should not rely on oral evidence provided by a Council officer whose professional opinion is that the proposals should be allowed. Therefore, the Council acted unreasonably by refusing the applications, failing to produce evidence to substantiate its reasons for refusals and thereby it prevented or delayed development which should clearly be permitted having regard to the development plan, national policy, and other material considerations.

The response by North East Derbyshire District Council

6. The response was made orally at the hearing. However, later in the day, a written summary was provided to me and copied to the appellant.
7. It can be summarised as follows:
8. The Planning Practice Guidance makes clear that parties in planning appeals normally met their own expenses. There is no obligation for planning committee members to follow the advice of Council Officers. Moreover, as the appeal was being determined via a hearing, Mr Kirkham was not required to provide a proof of evidence nor to appear as a witness under cross examination. As such, his role was to represent and act on behalf of the Council.
9. Green Belt is a simple and well-rehearsed planning argument. The Council's case was clear in the decision notice and amplified at the appeal. The reason for refusal was substantiated by the farmer and evidence heard by the Planning Committee.
10. It is self-evident that the loss of farm building would have an impact on the farm business.
11. The appellant has applied for full costs against the Council. The Planning Inspectorate determined that the appeal should be heard at a hearing rather than by written representations. Similarly, heritage matters were raised by the Planning Inspectorate and were not part of the Council's case. Therefore, were costs to be awarded against the Council these should be restricted to those costs for which the Council were directly responsible.

Reasons

12. 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.
13. In cases where proposals are refused contrary to planning officer's advice it may well be good practice for the Council's representative at a hearing to be someone who was not involved with the original recommendation. Nonetheless, where a planning officer is willing to articulate the Council's position rather than present their professional opinion, their involvement in the hearing would not

- necessarily undermine the Council's case. In this case, the Council's representative made this explicit.
14. Therefore, I do not consider this to represent unreasonable behaviour by the Council.
 15. The Council's reasons for refusal were clear, and as accepted by the appellant, it is not unreasonable for Planning Committee members to reach a different planning judgment than that of their officers. In such circumstances there is no need for the Council to explain why the planning judgment of Members was different to that of their officers. This is particularly the case when Members have taken into account evidence provided by professionally represented third parties.
 16. The first reason for refusal related to unacceptable encroachment into the countryside, the inappropriateness of the development within the Green Belt, which would have an unacceptable impact on the character of the area, and that there were no very special circumstances to outweigh the harm to the Green Belt. Safeguarding the countryside from encroachment is one of the five purposes of Green Belt. Therefore, it is not unreasonable within the Council's case to refer to the urbanisation of the site, and the visual harm to openness of the Green Belt. The Council's approach could be described as light touch. However, the Council's Statement of Case relates to a standard planning argument, typical of Green Belt cases. Therefore, in my judgment, the absence of further detailed analysis does not make the Council's behaviour unreasonable.
 17. With reference to the Council's second reason for refusal, its case relied heavily on the evidence put forward by a third party. Whilst the reasons for refusal and the statement of case could have been supported by more evidence and analysis, I have found that the proposed development would be contrary to saved Policy GS6 of the North East Derbyshire Local Plan which is broadly consistent with the Framework. Therefore, the behaviour of the Council has not directly caused the appellant to incur unnecessary or wasted expense in the appeal process.
 18. In sum, I have found that the appeals should be dismissed with reference to both reasons for refusal. As such, I cannot conclude that the Council prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy, or any other consideration.
 19. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

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INSPECTOR