



Costs Decisions

Site visit made on 13 July 2021

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th January 2022

Costs application A in relation to Appeal Ref: APP/C2708/W/21/3270950 The Granary, Peel Green, Hellifield BD23 4LD

- 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 Wellock Property Limited for a full award of costs against Craven District Council.
 - The appeal was against the refusal of planning permission for a development described as: Part demolition and change of use of 'granary' buildings to create group holiday accommodation, glasshouse, minor extensions and alterations, parking, and access.
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Costs application B in relation to Appeal Ref: APP/C2708/Y/21/3270952 The Granary, Peel Green, Hellifield BD23 4LD

- 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 Wellock Property Limited for a full award of costs against Craven District Council.
 - The appeal was against the refusal of listed building consent for works described as: Part demolition and change of use of granary buildings to holiday accommodation, glasshouse, minor extensions and alterations, parking, and access.
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Decisions

Application A

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

Application B

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

Preliminary Matters

3. Although two costs applications have been made, the appellant has submitted a single statement that covers both costs applications. The Council did not submit a statement in response.

Reasons

4. The Planning Practice Guidance (the 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.

5. The appellant's costs applications are predicated on the substantive grounds that the Council have made vague or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis, and which has prevented and delayed development which should have been permitted. No procedural grounds have been raised.
6. Although the proposals were refused by the Council's Planning Committee contrary to the recommendations made of the planning officer, the Council's committee is not obliged to accept the advice of its officers. This, of itself, is not unreasonable behaviour, although reasons for doing so should be given.
7. The appellant asserts that the Council's Planning Committee relied on inaccuracies when considering the proposals. Whilst the costs regime relates primarily to appeal process, the PPG sets out that costs applications may relate to events before the appeal was made. Whilst I have been referred to a newspaper article reporting on the Committee meeting, I have no way of verifying the accuracy of this or whether it represents the full extent of the discussions at the committee meeting.
8. The Council did not submit a Statement of Case in support of its decisions and the provided minute of the Planning Committee meeting where the applications were determined is very brief. That said, the minute of the meeting sets out that the Committee considered that the proposal would cause harm to the designated heritage assets, due to its size and design, and that, consequently, the proposals were contrary to Policy ENV2 of the Craven Local Plan 2019.
9. Failure to produce evidence to substantiate each reason for refusal on appeal can be unreasonable behaviour. The documentary evidence provided by the Council with the appeal questionnaire indicates that the Council's Planning Officers and heritage advisor concluded that the proposal would cause harm to the designated heritage assets. It is also common ground between the Council and the appellant that the proposal would result in less than substantial harm to the heritage assets. The Council's officers concluded that the public benefits of the scheme outweighed the harm that would be caused but the officer's report also sets out that it was considered that the case was finely balanced, and the benefits only marginally outweighed the harm.
10. It is also clear from the consultation responses appended to the officer's report that notwithstanding the appellant's assertion that in their comments of 16 July 2019 Historic England offered conditional support for the principal of the adaptive re-use of the buildings, Historic England clearly set out that it has concerns on heritage grounds. In their final comments prior to the determination of the applications, dated 30 March 2020, Historic England reiterated these concerns and set out that the size of the proposal challenges the existing hierarchy of Hellifield Peel and its associated outbuildings. A series of detailed comments from the Councils heritage advisor are also appended to the report which conclude that there would be harm caused but that this is marginally outweighed by the benefits of the scheme.
11. This information was before the Committee when it made its decisions on the application and from the Committee minutes and reasons for refusal, it is apparent that, notwithstanding other comments that may have been made at the Planning Committee meeting, the Committee in refusing planning permission and listed building consent for the reasons stated in the minutes did

not agree with its officer's conclusions in respect of the public benefits of the proposal when weighed against the harm identified.

12. When a Council refuses a planning application because it is contrary to the provisions of the development plan, as is the case here, the Council is exercising its duty under Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the reasons for refusal are, consequently, entitled to some weight.
13. The PPG sets out two tests in relation to awards of costs, namely that the behaviour must be both unreasonable and lead to unnecessary, or wasted, expense.
14. Whilst it may have been unreasonable for the Council not to have submitted a further statement at the appeal stage more fully elaborating on its reasons for refusal, as set out above, from the Committee minutes and reasons for refusal it is apparent that the Committee did not agree with its officer's conclusions and refused planning permission and listed building consent, with reference to relevant policies in the development plan, which is not of itself unreasonable.
15. In these circumstances the appellants would nonetheless have to had to progress the appeals had they wished to challenge the Council's decision. From the information that I have been provided with and from what I saw on my site visit I have concluded that the appeals should be dismissed, and the Council's actions have therefore not prevented or delayed a proposal that ought to have been granted planning permission and/or listed building consent.
16. The costs arising from progressing the appeals were, consequently, neither unnecessary nor wasted.
17. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

John Dowsett

INSPECTOR