



Costs Decision

Site visit made on 3 November 2022

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2023

Costs application in relation to Appeal Ref: APP/J0405/W/22/3294702 Land at Wootton Lane, Westlington HP17 8UR

- 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 R Gregory for a full award of costs against Aylesbury Vale District Council.
 - The appeal was against the refusal of planning permission for the demolition of Wychert Barn and the erection of a replacement building to be used as a dwelling house, access, parking and associated landscaping.
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Decision

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

Reasons

2. 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.
3. In the main decision, it was concluded that the non-designated heritage asset (NDHA) had limited significance and demolition would have limited harm. Although the Council came to a different conclusion, it is open for it to do so if its case is substantiated by objective analysis. In this regard, it has provided evidence on the significance and harm from the development on the NDHA, Conservation Area and wider character and appearance. In particular, its heritage appeal statement has provided evidence on significance and harm. Although I have come to a different conclusion, analysis of the evidence requires interpretation and therefore, subjective judgement which is not grounds for unreasonable behaviour.
4. Much of the Council's evidence relies upon on what they considered to be deliberate neglect of the NDHA as per paragraph 196 of the National Planning Policy Framework. In the absence of a definition, there is again some subjectivity in defining this term. I have come to a different conclusion on this matter to the Council but they have referred to the lack of any repairs or maintenance to this NDHA, including the absence of protective structure or fabric, with the applicant been fully aware of the condition of the barn. They have also referred to their view that there is contradiction between the 2018 Structural Note report and subsequent 2019 Conditions Survey and Structural Report. Such evidence provides a reasonable objective analysis in this instance.

5. The Council is alleged to have mishandled the evidence within the applicant's 2018 Structural Note and subsequent 2019 Conditions Survey and Structural Report. The Council focussed on the 2018 Structural Note report conclusions that the barn was not in an immediate state of collapse and that remedial works to the walls and roof could be reinstated for agricultural use. In response, the applicant's further 2019 Structural Report indicated remedial works required to bring the building back to agricultural use would require a complete rebuilding of the structure. The 2019 Structural Report sought to clarify the conclusion comments of the earlier report and I have agreed with the appellant on the findings of these documents. However, there are grounds for the Council's stance on the inconsistency between the reports based on interpretation. Taking the conclusions part of the 2018 Structure Note report in isolation, the construction works necessary for agricultural use are different to that in the later reports. Therefore, the Council has not been unreasonable in pursuing its position based on deliberate neglect and what it considers to be the deteriorated state of the barn.
6. The Council has not explicitly referred to the appellant's heritage statements, but it has come to its own conclusions based on the evidence before it, including its own assessment on heritage asset significance. In its officer's report, the Council details public benefits in its conclusions on the weighing and balancing of issues/overall assessment and therefore has undertaken an appropriate balance in accordance with legislation and case law. The third reason for refusal relates to insufficient information to demonstrate that development would not preserve existing trees and hedgerows on the site. This potentially could be overcome by a planning condition, but the Council has reasonably indicated, in its view, this was not certain because of the proximity of the development's built aspects to landscape features on the site.
7. Consequently, the Council has not 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. The pre-application dealings do not relate to the appeal proceedings and given the Council has not shown unreasonable behaviour in them, this would not provide a basis for a cost claim. I therefore find that unreasonable behaviour both on procedural and substantive grounds, resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Conclusion

8. For the reasons given above and having regard to all other matters raised, I conclude that the application for an award of costs is refused.

Jonathon Parsons

INSPECTOR