



Costs Decision

Site visit made on 26 January 2023

by Alec Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th February 2023

Costs application in relation to Appeal Ref: APP/U1430/W/21/3285681 Star Stud, Ivyhouse Lane, Guestling TN35 4NN

- 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 J O'Hara for a full award of costs against Rother District Council.
 - The appeal was against the refusal of planning permission for change of use of barn to holiday accommodation.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Advice over the award of planning appeal costs is set out in the Government's Planning Practice Guidance (PPG). It states the established premise that parties to an appeal normally meet their own costs. However, where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be liable to an award of costs. Unreasonable behaviour in this context may be procedural, relating to the appeal process, or substantive, relating to issues arising from the merits of the appeal.
3. This costs application is based on the substantive ground that the Council failed to substantiate its reasons for refusal by applying the relevant policies correctly and applying them in a consistent manner.
4. The alleged failure to substantiate the refusal of planning permission was over the Council applying a requirement to justify the conversion of the building, its effect on the High Weald AONB and that the relevant policies of the development plan have not been applied consistently based on similar tourist/holiday accommodation approved by the Council.
5. The Council's officer report is somewhat disjointed in its laying out of the issues. I am however satisfied that the Council's decision to refuse the application was not because the appeal failed to demonstrate justification for the conversion but on the suitability of the location of the site. I acknowledge that schemes of a similar scale have been granted by the Council however, these would have given rise to their own individual assessment against the relevant policies of the development plan. As such, there is no evidence before me to suggest a consistent approach has not been taken. Moreover, I find the

merits of other appeal examples simply resulted in a different outcome as is the case with this appeal scheme.

6. Furthermore, I find that the Council was entitled to reach its own conclusion on the effect of the proposal on the AONB. I have not found the same level of harm to the AONB would occur from the conversion of the building but nevertheless, the overall harm has led me to reach the same conclusion as the Council in determining the appeal.

Conclusion

7. I am satisfied that the Council applied a reasonable degree of balancing in reaching the decision that led to the appeal, including consideration of the National Planning Policy Framework. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For the reasons given, I conclude that the application for costs is refused.

A Hickey

INSPECTOR