
Costs Decision

Hearings Held on 18 April and 16 May 2023

Site visit made on 17 April and 18 May 2023

by S Hunt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2023

Costs application in relation to Appeal Ref: APP/E2734/W/22/3312758 The Half Moon Inn, Sharow Lane, Sharow, North Yorkshire HG4 5BP

- 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 Mark Fitton for a full award of costs against Harrogate Borough Council.
 - The hearing was in connection with an appeal against the refusal of permission for Change of use to a single dwelling.
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Decision

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

Reasons

2. Paragraph 028 of the Planning Practice Guidance advises that parties in appeal proceedings normally meet their own costs, but 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. The applicant made an application for costs in writing and the Council responded prior to the Hearing. No further claims or comments were made at the Hearing. The applicant submits that the Council has demonstrated unreasonable behaviour in the following substantive terms:
 - The application was refused because marketing comprised offering the Half Moon Inn for lease only rather than also for sale, despite the Council having previously agreed the marketing campaign in question;
 - The dismissal of the Christie and Co independent assessment by the Council because it somehow lacked credibility was unreasonable; and
 - The resubmitted planning application was refused without any opportunity for dialogue.
4. The Council responded that at no point did they indicate that marketing for sale is not needed, and that officer advice is given without prejudice to any subsequent formal application. They determined the application in accordance with the development plan as per Section 38(6) of the Planning and Compulsory Purchase Act 2004. They appointed external advice as expertise was not available in-house, and in this instance the Christie and Co report was founded primarily on the basis of the applicant's commentary. A request for the

- report to be highlighted was not responded to and consequently the Council considered it was of limited weight in the final consideration of the application.
5. A further response was supplied by the applicant regarding the detailed conversations regarding marketing and their efforts to meet the Council's requirements. The applicant explained the dialogue they had with the Christie and Co surveyor when visiting the property, and that the Council's rationale for discrediting their own independent and expert assessment had no basis.
 6. It will be seen from my appeal decision that I found the proposal to be in conflict with the Council's development plan, specifically part C) of Harrogate District Local Plan policy HP8 in relation to there being a reasonable prospect of the existing public house use continuing on a viable basis. In arriving at this conclusion, I considered the marketing and valuation of the property and considered this to be appropriate. The fact that the property had not been advertised for sale, or the contents of the Christie and Co report, were not matters on which the appeal turned on.
 7. From the evidence before me, the advice supplied by the Council regarding marketing was given appropriately in respect of the policy on which the application would be determined. Whether any advice or the contents of the Christie and Co report were misinterpreted by either party is not a matter which would have caused the applicant to carry out additional work or marketing to assist in the appeal; indeed the property was ultimately not marketed for sale.
 8. With regard to the re-submitted planning application, whilst only the decision notice is before me, I understand that the submission was identical to the application the subject of the appeal and it ultimately did not assist in negating the decision to appeal.
 9. The Council was not unreasonable in coming to its decision on the proposal before me and I have agreed with their overall conclusions. The applicant's costs were a necessary part of the appeal.
 10. Given the above, I find that unreasonable behaviour by the Council resulting in unnecessary or wasted expense in respect of the issues raised by the applicant has not been demonstrated.

Susan Hunt

INSPECTOR