



Costs Decisions

Site visit made on 19 September 2023

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 09 October 2023

Costs application in relation to Appeal A Ref: APP/Y3940/W/23/3317599 Berrybrook Farm, Street Lane, Sedgehill, Wiltshire, SP7 9JQ

- 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 Peter Harding of HFH Developments Ltd for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for change of use of the Long Barn to holiday accommodation, including new fenestration, rooflights, an extension, internal alterations and refurbishment of a granary.
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Costs application in relation to Appeal B Ref: APP/Y3940/Y/23/3317604 Berrybrook Farm, Street Lane, Sedgehill, Wiltshire, SP7 9JQ

- 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 Mr Peter Harding of HFH Developments Ltd for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of listed building consent for change of use of the Long Barn to holiday accommodation, including new fenestration, rooflights, an extension, internal alterations and refurbishment of a granary.
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Decision – Application in relation to Appeal A

1. The application for costs is allowed in full, in the terms set out below.

Decision – Application in relation to Appeal B

2. The application for costs is allowed in full, in the terms set out below.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (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.
4. The applicant submits that the Council's reasons for refusing the applications were not substantiated at appeal, and that they do not adequately counter the previously expressed views of the Council to justify the refusal reasons.
5. In this respect it is entirely reasonable for a planning committee to come to a different view to the recommendation put forward by its officers. However, given that this would be contrary to the detailed recommendations set out in a committee report, it is essential that the reasons for refusal are robustly substantiated.

6. The refusal reasons are not clearly worded. On an initial reading it appears as though the proposal was refused due to heritage impacts. There is however nothing of any substance in the Council's appeal statement to substantiate the reference in the refusal reasons to the proposal's impacts on the character of the listed barn and the setting of the heritage assets. This is essential given the clear position that was set out in the committee report, which had been developed following detailed input from the Council's conservation specialist. Thus, with reference to the PPG I find that the Council failed to produce evidence to substantiate a reason for refusal.
7. Instead, the Council's appeal statement focusses on the impact on the living conditions of those who occupy the neighbouring dwelling. This is a matter that is referred to in only vague terms in the Council's refusal reason for the planning application, with reference to the impacts on the amenity of the surrounding area. It would not, on the basis of a straightforward reading, constitute the main reason that the proposal was refused. I therefore also find that the Council has behaved unreasonably by making vague, generalised or inaccurate assertions about a proposal's impact.
8. These matters are compounded by the Council's reference to the insertion of a new first floor into the building. The building already has a first floor. These references would not appear to be limited to the use of the first floor as living accommodation rather than its construction, as the Council suggests in its cost's rebuttal. The Council referred to internal alterations to form a first floor, suggesting that the building would be adapted for the floor to be inserted. In this respect the Council demonstrates a misunderstanding of the nature of the proposal, which further reinforces the position that its assertions about the proposal's impact are inaccurate.
9. The Council found that harm would arise from the proposal in relation to its impact on the character of the listed barn and the setting of the heritage assets. However, it did not quantify the level of harm or its nature, and there is nothing in the committee minutes or Council's appeal statement to demonstrate that this harm was weighed against the public benefits of the proposal in accordance with the National Planning Policy Framework. This should have taken into account the benefits of providing a new long term use to the building and the repair of the granary.
10. I need to consider whether the unreasonable behaviour of the Council has resulted in unnecessary or wasted expense on the part of the applicant. The applicant has incurred unnecessary and wasted expense by lodging appeals against refusals that should have reasonably been permitted. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified for both applications.

Costs Order – Appeal A

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wiltshire Council shall pay to Mr Peter Harding of HFH Developments Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The applicant is now invited to submit to Wiltshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Costs Order – Appeal B

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wiltshire Council shall pay to Mr Peter Harding of HFH Developments Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
14. The applicant is now invited to submit to Wiltshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Tucker

INSPECTOR