



Costs Decision

Site visit made on 24 May 2023

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 13 October 2023

Costs application in relation to Appeal Ref: APP/N2739/W/22/3311830 Hall Lane Stables, Hall Lane, Church Fenton, Tadcaster LS24 9RN

- 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 Nigel and Sarah Chester for a full award of costs against Selby District Council.
 - The appeal was against the refusal of the Council to grant approval of details to discharge condition 02(manure) of approval 2019/0564/FUL Section 73 application to vary condition 11 (number of horses) of permission 2009/0565/FUL (allowed on appeal 01 April 2011) for the erection of 3 blocks of 7 No. stables with tack room, erection of indoor riding area, construction of outdoor riding area and vehicle park and siting of a mobile home.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. 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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.
3. I dismissed the appeal as the operational development proposed was outside the boundary of the site. The applicants have asserted that the Council has acted unreasonably as it failed to maintain the Planning Register as required by the DMPO 2015¹. This is because the correct plans relating to permission Ref 2019/0564/FUL were not available to view on the online planning register during the planning application subject to the appeal and subsequently at the time that comments were required by the appeal timetable.
4. The Council does accept that the applicants experienced difficulties in accessing this information from the Council's website. Nevertheless, the Council considers that it responded to enquiries for information as soon as it was received, and provided assistance when the applicants were unable to download relevant files.
5. However, this does not address the issue that the relevant plans had not been available to anyone interested in this appeal, or indeed the associated planning application, up until that point. Furthermore, it was only by the persistence of

¹ The Town and Country Planning (Development Management Procedure) (England) Order 2015

the applicants and their experts, that it became apparent that the manure storage area would fall beyond the red line boundary of the appeal site.

6. The Council has provided no explanation of its failure to have the plans on its website. It has focused on the technical issue of dealing with the request to provide plans to the applicants once it was clear that these were missing.
7. If the Council had kept its online planning register properly up to date, it is logical to conclude that the initial, and otherwise thorough, counsel opinion provided to the applicants in relation to Ref 2019/0564/FUL would have identified that the manure storage area would be located beyond the site as defined by plan SH01A and therefore beyond the jurisdiction of the permission itself.
8. Instead, this discovery was only made pursuant to a second counsel opinion instructed by the applicants at the appeal stage. It follows that, had the Council publicly provided the site location plan at the application stage, this immutable procedural issue could have been raised to the Council (and perhaps also the appellants) then, and it is likely that the appeal could have been avoided. Consequently, the applicants' submissions made in relation to the appeal would not have been required.

Conclusion

9. 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.

Costs Order

10. 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 Selby District Council² shall pay to Nigel and Sarah Chester, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the submission of this appeal; such costs to be assessed in the Senior Courts Cost Office if not agreed.
11. The applicant is now invited to submit to Selby District 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.

M J Francis

INSPECTOR

² The application was determined by Selby District Council. Since 1 April 2023, Selby District Council has become part of the new unitary authority of North Yorkshire Council.