



Costs Decision

Site visit made on 18 October 2023

by L N Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2023

Costs application in relation to Appeal Ref: APP/U2750/W/23/3327563 The Old Hall, Main Street, Kelfield, York YO19 6RG

- 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 Nick Hare for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of planning permission for the demolition of redundant stable block and tack room and construction of two bedroom dormer annexe.
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Decision

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

Reasons

2. 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. The appellant asserts that the application should have been taken to Committee due to the letters in support and a Local Councillor request. They state there was then no communication for a number of weeks until the refusal was received.
3. Although a delay of nearly 4 months beyond the target deadline is clearly unfortunate, the decision not to present the application at Committee falls under the due process of the Council's schemes of delegation. This includes that no letters of support were received, with those referred to by the applicant being for a previous application on the site.
4. Although the Council's costs evidence does not reference the applicant's email of 9 February 2023 which submitted the revised scheme design, its refusal of the application was on the basis of that design. I thus do not see that this has a direct bearing to costs.
5. Furthermore, had the application been presented to Committee, I have not seen any indication that it would have been recommended for approval. I have no certainty that, as required by the PPG, its discussion at Committee may have resulted in either the appeal being avoided altogether or the issues to be considered being narrowed. I thus find no wasted expense in this regard.
6. However, my appeal decision identifies that the building would not result in the creation of a separate planning unit, functioning as an ancillary annexe to the main dwelling. While it is long established to be a matter of fact and degree as to whether an independent use could occur in an annexe building, I found it clear that the proposal would not conflict with policy in this regard. In coming to this conclusion, I particularly took account of the description of the

development being sought, the appellant's signed Unilateral Undertaking (UU) to this effect, and that a condition could also be imposed to require this ancillary function.

7. The Council did not indicate why the UU or the imposition of a condition would not be acceptable to ensure this ancillary function. The PPG identifies that refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs. It also identifies that preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations, is an unreasonable substantive matter.
8. As a result of this aspect of the refusal, I therefore find that the applicant has incurred wasted expense in presenting the proposal against the development plan policy framework for a new build dwelling. This includes an assessment against other backland schemes approved in the area. As such, I find both unreasonable behaviour to have been demonstrated, and wasted expense caused in this regard.
9. The applicant further asserts that the reasons for refusal are inconsistent with particularly 2 other recent planning decisions on nearby sites. It is not clear which sites are alluded to in this instance, although their evidence discussed several local comparators. However, I do not find that the site examples used primarily to compare character and appearance, such as the effect of dormers or the spacing of new development, to be inconsistent with the decision in this case. The Council is not unreasonable to assess each application on its individual merits, and come to different views based on individual site context.
10. Overall, for the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of presenting the proposal against the development plan policy framework for a new build dwelling, and a partial award of costs is therefore warranted.

Costs Order

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 North Yorkshire Council shall pay to Mr Nick Hare, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in presenting the proposal against the development plan policy framework for a new build dwelling; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to North Yorkshire 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.

L N Hughes

INSPECTOR