



Costs Decision

Site visit made on 11 January 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2024

Costs application in relation to Appeal A Ref: APP/C1435/W/23/3315415 and Appeal B Ref: APP/C1435/Y/23/3315414

The Farmhouse, Pennybridge Lane, Mayfield TN20 6QB

- 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 Juliet and Stephen Callaghan for a partial award of costs against Wealden District Council.
 - Appeal A was against the refusal to grant planning permission for 'Minor alterations to the previous approved proposals.'
 - Appeal B was against the refusal to grant listed building consent for 'Minor alterations to the previous approved proposals.'
-

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.
3. The applicant submits that the Council has acted unreasonably on a number of grounds. I take these to be, in summary, that it has provided an unnecessarily complex reason for refusal and has failed to substantiate a stated reason for refusal of permission, including in respect of historic fabric, and has persisted in objecting to the scheme where a similar scheme was found to be acceptable previously. This is stated to have amounted to additional costs to the appellant, including in respect of the need for technical input from a heritage consultant and planning consultant in preparing the appeal evidence.
4. In respect of the planning decision, overall, I have noted the Council's reason for refusal. This is specific and relevant to the application. The Council also clearly states the policies of the development plan which the proposal is considered to conflict with. This reason, when taken together with the officer report, has broadly been substantiated. Ultimately, the application formed a new planning application and consisted of elements which, although not dissimilar, were not identical to the earlier scheme.
5. However, the Council makes reference to the loss of historic fabric in its reason for refusal. This is a matter that was subsequently stated as being in error. Moreover, the Council failed to substantiate this part of the reason for refusal in its evidence. On this basis, the refusal on the grounds of harm by reason of the

loss of historic fabric is unreasonable. I therefore find that the Council has acted unreasonably in this matter.

6. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the Council's reason for refusal relating to the loss of historic fabric and a partial award of costs is therefore warranted.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972, Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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 Wealdon District Council shall pay to Juliet and Stephen Callaghan the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of the reason for refusal concerning harm to historic fabric; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to the 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 Price

INSPECTOR