
Costs Decisions

Site visit made on 9 May 2024

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13th May 2024

**Costs application in relation to Appeal A Ref: APP/C1435/W/23/3334615
1 Cornfords Yard, The Granary, High Street, Uckfield, East Sussex
TN22 1RJ**

- 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 Lawson Commercial for a full award of costs against the decision of Wealden District Council.
- The appeal was against the refusal of an application for planning permission for erection of photovoltaic panels on existing roof areas to curtilage listed converted office building.

**Costs application in relation to Appeal B Ref: APP/C1435/Y/23/3334617
1 Cornfords Yard, The Granary, High Street, Uckfield, East Sussex
TN22 1RJ**

- 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 Lawson Commercial for a full award of costs against the decision of Wealden District Council.
 - The appeal was against the refusal of listed building consent for erection of photovoltaic panels on existing roof areas to curtilage listed converted office building.
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Decision – Appeal A

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

Decision – Appeal B

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

Reasons

3. Planning Practice Guidance (PPG) states that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may be procedural, relating to the process, or substantive, relating to issues arising from the merits of the appeals. There was a single application for costs relating to both appeals. The reasoning which follows also relates to both appeals.
4. The applicant is seeking a full award on substantive grounds, arguing that the Council prevented development that should have been permitted, having

regard to its accordance with the development plan. For reasons given in my appeal decision, I do not consider that the proposal is in accordance with the development plan. Nor is it development that should have been permitted.

5. The applicant also argues that the Council failed to apply the balancing exercise required by Paragraph 208 of the Framework¹, by confining its assessment to heritage benefits and not having regard to other public benefits. I note that the final paragraph of the conclusion to the officer's report uses the words "*the public benefits of the proposal*." However, that is by reference to the main body of the report. When the report is read as a whole, there is no reference to any benefits relating to the provision of renewable energy.
6. I consider that the officer's report is the best evidence as to how this matter was assessed by the Council. There is no evidence to support the Council's assertion, in the costs rebuttal statement, that all aspects of sustainable development were considered. In my view the Council failed to carry out the balancing exercise in the way required by the Framework. In so doing, it failed to take account of a material consideration, namely the contribution that the proposal would make to renewable energy and reducing greenhouse gas emissions. That was unreasonable behaviour in relation to the substance of the appeal.
7. It is therefore necessary to consider whether that unreasonable behaviour caused the applicant to incur unnecessary or wasted expense in the appeal process. To my mind it did not. On the balance of probabilities, the evidence before me indicates that the Council would have reached the same conclusion in any event. When presented with revised applications for the same proposal, (albeit with an expanded justification), the Council came to the same conclusion. For the reasons set out in my appeal decision, I consider that this was a reasonable exercise of planning judgement. All this indicates to me that the appeal would still have been needed, even if the Council had applied Paragraph 208 correctly.
8. I conclude that the conditions for an award of costs have not been met.

David Prentis

Inspector

¹ The costs application refers to Paragraph 202, which is the equivalent paragraph in the previous version of the Framework