



Costs Decision

Site visit made on 18 June 2024

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2024

Costs application in relation to Appeal Ref: APP/U2750/W/24/3342044 Cherry Tree Stables, Kirkby Lane, Kearby LS22 4BS

- 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 Wright & Rogers for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of planning permission for reconfiguration of buildings to incorporate demolition works, residential conversion and a new-build dwelling.
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Decision

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

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. Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal and with respect to the substance of the matter under appeal. Examples of unreasonable behaviour may include preventing or delaying development which should clearly be permitted; making assertions about a proposal's impact, which are unsupported by any objective analysis; or refusing to enter into pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in the appeal being avoided, or the issues to be considered being narrowed.
4. The applicant for costs contends that the Council has been inconsistent and contradictory in its assessment of the proposal, has not had regard to relevant material considerations, and has misdirected itself with respect to the relevance of national and local planning policy and how this should be applied to the appeal scheme. It is also alleged that the Council failed to provide an opportunity for any meaningful engagement with the appellant.
5. The reasons for refusal are set out clearly in the Council's decision notice. Further justification is provided in the Council's Officer Report. It will be seen from my decision that I agree with the Council's judgement in the first two reasons for refusal, and that there were sufficient grounds for refusing planning permission based on conflict with the identified national and local planning policies and relevant material considerations, including the planning history.

6. I thus do not find that the Council has acted unreasonably in its interpretation or application of planning policy, nor its understanding of relevant matters. There is also no compelling evidence that the Council has been inconsistent or contradictory in its correspondence with the appellant in this regard.
7. In respect of the third reason for refusal, representations from the Local Highway Authority (LHA) were forwarded to the applicant at an early stage. Nevertheless, the applicant was given limited opportunity to prepare the additional information requested, and the application was refused before this could be submitted. While the Council indicate that they did not wish for the applicant to accrue additional cost preparing this information when it would not have altered the decision, had the applicant had an opportunity to submit this information at the time it would have narrowed the scope of this appeal.
8. Notwithstanding this, even if I were to consider that the Council's behaviour in this regard was unreasonable, this additional information would have been required irrespective of the timing of its submission. There is no substantive evidence to demonstrate that this has resulted in the applicant incurring unnecessary or wasted expense in the appeal process, particularly as the application would justifiably have still been refused based on the other reasons.
9. While costs cannot be claimed for the period during the determination of the planning application, the PPG and National Planning Policy Framework encourage local planning authorities to take a positive approach and work proactively with applicants. I recognise that the Council sent an erroneous letter to the applicant early in its consideration of the application, however this appears to have been understood as an error at the time and did not affect the consideration of the application.
10. The evidence otherwise indicates that the Council communicated with the appellant frequently, responded promptly to e-mails, had regard to further submissions, and set out its concerns clearly in advance of issuing a decision, with reference to relevant national and local planning policy. There is no evidence that the Council was under an obligation to thereafter also meet with the applicant, or continue to discuss the merits of the scheme, during the determination period.
11. Moreover, the applicant has indicated that they did not enter into formal pre-application discussions with the Council, in view of recent planning history. However, the appeal proposal is materially different to the previously approved scheme, and this would likely have provided an opportunity for the identified issues to be brought to light in advance of submission of a planning application.

Conclusion

12. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Ryan Cowley

INSPECTOR