



Costs Decision

Site visit made on 7 August 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2024

Costs application in relation to Appeal Ref: APP/P2935/W/24/3343889 Site of the former Haydon Hotel, Shaftoe Street, Haydon Bridge NE47 6JG

- 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 Messrs Gary & Philip Cousins for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of the Council to grant planning permission for construction of two dwellings and detached garage with associated access and parking the Haydon Hotel/Honey Pot Cottage Shaftoe Street Haydon Bridge Hexham Northumberland NE47 6BJ without complying with condition 3 attached to planning permission Ref 20071354, dated 14 August 2009.
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Decision

1. The costs application is allowed in part and partial costs are awarded.

Reasons

2. The Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour on a substantive or procedural basis has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. It is claimed that the Council have acted to prevent or delay development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material considerations. It is also suggested that a failure to grant a further planning permission for a scheme that is the subject of an extant permission where there has been no material change in circumstances is also identified as an example of a scenario in which a costs award can be granted.
4. However, as can be seen from the associated decision letter, the proposal has harmed and would harm the significance of the Haydon Bridge Conservation Area. There is therefore no basis to the costs claim on the above grounds.
5. The claimant further asserts that the Council's refusal of the Section 73 application was flawed and without foundation. Given that considerations indicate that the scheme could be considered under S73A, the Council was unreasonable to refuse the application on the basis that it did.
6. Therefore, the Council have behaved unreasonably with respect to the substance of the matter under appeal in not following well-established case law.

Conclusion

7. Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to procedural matters relating to the process or substantive matters relating to the issues arising from the merits of the appeal. I find that the Council have behaved unreasonably with respect to the substance of the matter under appeal in relation to their reason for refusal.
8. It will remain unknown whether the Council would have identified harm associated with the proposal or otherwise and whether an appeal would or would not have been avoided had it not refused the application on the basis that it did. However, a partial award of costs is subsequently justified with regards to any work undertaken at appeal stage by the appellant to counter the Council's stated reason for refusal.

Costs Order

9. 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 Northumberland County Council shall pay to Messrs Gary & Philip Cousins the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Northumberland County 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.

T Burnham

INSPECTOR