



Costs Decision

Site visit made on 5 September 2024

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Costs application in relation to Appeal Ref: APP/U2750/D/24/3344068 Verwell House Farm, Church Hill, Reighton, Filey, North Yorkshire YO14 9RX

- 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 & Mrs Hawkes for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of planning permission for alterations to windows, doors, gables, main roof, side roof, rear projection roof and dormer. Installation of rear and side skylights and dormers. Erection of rear porch. Installation of external insulation and re-rendering.
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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 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 parties have made their respective cases in writing and I shall not repeat them in full here. Despite the applicant's misgivings, I do not consider that the respondent was, looking at their assessment as a whole, mistaken in their understanding of the proposal that was before them, or in the differences between that scheme and the one which had previously been refused planning permission. Whilst I have come to a different conclusion in my decision on the appeal, the respondent's finding of harm was a matter of judgement and I am satisfied that they adequately set out their reasons for reaching the conclusion that they did. It does not seem to me that entering into further discussions with the applicant would have altered their position.
4. However, having reached the view that there would be harm caused to the Reighton Conservation Area, there was then a subsequent failure to weigh any public benefits of the proposal against the harm. That is a clear requirement set out in Policy DEC5 of the Scarborough Borough Local Plan 2017. The Conservation Officer found the harm to be less than substantial and in such an instance the National Planning Policy Framework at paragraph 208 also requires the same weighing of public benefits against the harm. The applicant presented a number of what they considered to be public benefits in their Heritage Statement, including relating to optimum viable use, but these were not addressed at all by the respondent in coming to their decision to refuse planning permission.

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5. This failure to fully assess the proposal against the relevant local and national planning policies is not acknowledged or explained in the respondent's costs rebuttal. The respondent relied on a different criterion of Policy DEC5 which states that *proposals affecting a Conservation Area should preserve or enhance its character or appearance*. Even the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 refers only to *the desirability of preserving or enhancing the character or appearance of the Conservation Area*. Therefore, on correct application of local and national planning policy and the statutory duty, it is possible that harm to a Conservation Area could be outweighed. If a case is made that there would be benefits arising from a development, it is incumbent on the decision maker to apply that balance and to come to a clear conclusion on it.
 6. The appeal proposal was not therefore considered fully against the relevant planning policies. It is possible that the appeal might have been avoided if this was undertaken, especially if the matter of optimum viable use had been explored including matters relating to the poor condition of the building, which to all extents appears to pre-date the applicant's ownership of it. This represents unreasonable behaviour on the respondent's part and has necessitated the applicant making an appeal in order that they were able to have the opportunity for their case to be heard in its entirety. They have incurred unnecessary expense in having to take this course of action, and therefore a full award of costs is justified.

Costs Order

7. 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 & Mrs Hawkes, 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.
8. 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.

Graham Wraight

INSPECTOR