



Costs Decision

Site visit made on 22 October 2024

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th November 2024

Land adjacent Trinity Hall, Church Street, Old Hurst, Huntingdon PE28 3AF Costs application in relation to Appeal Ref: APP/H0520/W/24/3338509

- 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 W S Campbell & Son Ltd for a full award of costs against Huntingdonshire District Council.
- The appeal was against the refusal of permission in principle for residential development.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant's claim is based on substantive grounds; namely, that the Council was unreasonable in refusing the application due to insufficient supporting information regarding the potential impacts upon the significance of nearby listed buildings; that the Council has failed to substantiate its reasons for refusal at appeal stage; making inaccurate assumptions about the proposal's design aspirations; suggesting that the applicant withdraw the application for permission in principle and submit a detailed planning application; and that the Council did not give sufficient weight to a previous grant of planning permission on the appeal site for residential development.
4. Regarding the first matter, the Council considered that it was unable to discharge its statutory duty as decision maker under section 66(1) of the Listed Buildings and Conservation Areas Act 1990 (the Act) to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses due to the lack of supporting information submitted with the application. However, the PPG is clear that the scope of permission in principle is limited to location, land use and amount of development. Issues relevant to these 'in principle' matters should be considered at the permission in principle stage¹. Moreover, this approach separates the consideration of matters of principle for proposed development from the technical detail of the development².

¹ Paragraph: 012 Reference ID: 58-012-20180615

² Paragraph: 001 Reference ID: 58-001-20180615

5. The level of information submitted by the applicant was commensurate with the requirements of the guidance given in the PPG for this type of application. While I appreciate it was with the intention of discharging the statutory duty of the Act, there was no substantive assessment by the Council of how the setting of these two heritage assets contributes to their significance and how this would be harmed due to the location in principle. Therefore, refusing the application because further technical details with regards to design were not provided was unreasonable, as these should be provided at the technical details consent stage. This approach was replicated at appeal stage, with no substantive defence of its reasons for refusing the application produced. I therefore find that the Council was unreasonable in its behaviour in these regards.
6. I note the applicant feels that the Council made unsubstantiated assumptions regarding the design approach which would include demolition and the replacement of existing buildings on the site. However, these appear to have been made by the conservation officer in their consultation response and were not used in the relevant section of the report by the planning officer.
7. Similarly, although I take on board that the Council advised that the permission in principle application be withdrawn and a detailed application for planning permission be submitted, it is clear that the application was determined. Although I disagree with the approach, it was officer opinion which the applicant ultimately chose not to follow and did not contribute directly to the decision made as the application was refused regardless.
8. Furthermore, it is claimed that the Council did not consider the relevance of a previous grant of planning permission³ on the appeal site for a conversion of a brick barn to housing. These plans have been provided by the applicant. Moreover, the site planning history also shows that the permission was renewed in 1995⁴. The original grant of permission is now 34 years old, and as such would have been considered under a different policy context. This was also a different procedure while the Council's officer report did conclude that the use of the land for housing was acceptable.
9. Taken together, I do not agree with every matter forwarded by the applicant, although fundamentally the approach taken was unreasonable. I must also consider whether the Council's unreasonable behaviour has meant that the applicant has incurred any unnecessary costs or wasted expense.
10. In these circumstances, the refusal of permission in principle due to a lack of supporting information on the proposals impacts upon the setting of nearby listed buildings constitutes unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the PPG and the applicant has been faced with the unnecessary and wasted expense of lodging the appeal. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

11. 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,

³ Application Reference: 9001480FUL

⁴ Application Reference: 9501342FUL

and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Huntingdonshire District Council shall pay to W S Campbell & Son Ltd 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.

12. The applicant is now invited to submit to Huntingdonshire District 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.

C McDonagh

INSPECTOR