

Costs Decision

Site visit made on 16 September 2024

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th November 2024

Costs application in relation to Appeal Ref: APP/P2935/W/24/3344732 Lynn View, Limestone Brae, Hexham NE47 8AL

- 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 Colin Reed for a full award of costs against Northumberland County Council.
 - The appeal was against the refusal of planning permission to convert existing byre to create single dwelling house with new access and ancillary garage.
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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. The application for costs has been made in writing and is on two grounds. In summary, the applicant firstly considers that the respondent did not provide any evidence or professional reasoning to support their conclusion that the submitted structural reports did not demonstrate beyond reasonable doubt that the building is capable of conversion. Secondly, they consider that the respondent erred in not considering the context of a recent appeal decision¹ relating to the site, in particular in terms of the importance of Policy HOU 8 Part 1b) of the Northumberland Local Plan 2022 (LP) which refers to heritage assets. It is also raised that no opportunity was given to address the concerns that the respondent had during their consideration of the planning application.
4. The respondent's rebuttal states that their delegated report clearly sets out their assessment relating to the structural considerations. Furthermore, they consider that the previous proposal, which was subject to the appeal decision, differed materially to the current appeal proposal and they question whether the appeal proposal could be considered to represent the optimum viable use of the non-designated heritage asset as per Policy HOU 8 Part 1), given that it would only utilise/re-use part of the building. In terms of the applicant's final concern about an absence of engagement, the respondent states that they worked to determine the application within the original target date and that their concerns related to the principle of the development and would not have been easily overcome through amendments.

¹ APP/P2935/W/22/3304913

5. Policy HOU 8 of the LP allows for the re-use of redundant or disused buildings. However, neither the policy nor its accompanying wording provides clarification or definition as to the parameters of what a re-use of a building might entail. In the absence of such, an assessment of whether a proposal would be a re-use or otherwise is a matter of judgement for the decision maker. In that regard, the delegated report sets out in some length the reasons why it was considered that the structural reports provided did not adequately demonstrate that the appeal proposal would be a re-use of the building. In essence, it was concluded that the building was not capable of conversion without significant works which fall outside of the scope of a conversion and thus outside the scope of re-using the building. The reasoning is adequate to illustrate how the respondent reached that position having given detailed consideration to the two structural reports and, even though I have come to a different view on this, I find there to have been no unreasonable behaviour by the respondent in this respect.
6. The delegated report makes reference to the previous planning application that was dismissed on appeal only in the planning history section. There is no consideration of it elsewhere in the report. However, there have been no substantive details provided as to what information was available to the previous Inspector when they concluded there to be *little evidence of a need for a substantial rebuild* of the section subject to this appeal. But, as both structural reports now available appear to post-date the previous appeal decision, it would seem that there was more information available at the point the current appeal application was determined than previously. As I have set out above, the respondent did not act unreasonably in how it dealt with that information and the specific consideration to which it related.
7. The previous scheme was also materially different to the appeal proposal in that it would have brought back all of the former building into use. The heritage asset is greater than just the section to which the current appeal relates. Whilst it is intended that there would be some remedial works to the other part of the building, I too am not persuaded that what is proposed would secure the optimum viable use of the asset as a whole or be enabling development. Therefore, whilst it may have been prudent for the respondent to have addressed the previous appeal decision in more depth, I do not consider it unreasonable for them not to have done so in this instance.
8. Whilst I appreciate that the applicant would have welcomed dialogue to attempt to address the remaining matter that was in dispute, it was not unreasonable in the circumstances the respondent has set out that they proceeded to determine the application. Furthermore, I am satisfied that they have been able to substantiate their position and the approach they took overall to determining the planning application.
9. For the reasons I have set out above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Graham Wraight

INSPECTOR