



Costs Decision

Hearing held on 30 April 2025

Site visit made on 29 April 2025

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 May 2025

Costs application in relation to Appeal Ref: APP/C9499/W/25/3358556

New Laithe, Chapel House, Kilnsey, Skipton BD23 5PR

- 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 Peter, William and Anthony Roberts for a full award of costs against the Yorkshire Dales National Park Authority.
 - The appeal was against the refusal of planning permission for what was originally described as the change of use from a mixed use of Sui Generis and C1 (shoot lodge and accommodation) to a mixed use of Sui Generis and C1 (shoot lodge with accommodation and short term holiday let).
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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 applicants contend that the Authority acted unreasonably as the proposed development was in line with national and local planning policy, there were fundamental inaccuracies in its assessment, and a misunderstanding of the planning use sought. This resulted in the assessment of a different scheme to that actually proposed. As such, there was no objective analysis to substantiate the reason for refusal, which relied upon vague, generalised, or inaccurate assertions.
4. A large extent of the Authority's evidence included why the permitted use should not be described as a C1 use, a position with which I agree. The applicants' position on this was maintained in their written evidence up to the point of the hearing, when the position was clarified. As explained in my appeal decision, I have therefore given the proposal a slightly different description to that originally sought, such that for the purposes of my determination it comprises; *"the change of use from sui generis (shoot lodge with accommodation) to a mixed use of sui generis (shoot lodge with accommodation, and short term holiday let)."*
5. The case law and appeal evidence submitted demonstrated that short term holiday lets do have many attributes relating to C3 dwellings, and can be interchangeable. The Authority explained that those cases discussed by the applicants primarily relate to a perceived material change of use through intensification of an established dwelling, not being so relevant to the context of the appeal proposal so as to provide specific clarity on the matters in dispute.

6. Nonetheless, I did find the Authority incorrect in classifying the short term holiday let as a Class C3 dwelling. Although it would have the essential characteristics of a dwelling during its occupation, it would be a mixed use alongside the shoot lodge function, and thus would be sui generis. I also found no basis for the Authority's referencing of the loss or potential loss of a permanently occupied dwelling.
7. Notwithstanding this, I find the applicants' use of and focus on the description including the term 'C1 use', to have been a contributing factor in creating significant confusion and uncertainty relating to the use sought. In light of this, I find it understandable that the Authority focused on this and followed a level of confusion including some internal inconsistencies in its Officer Report, to the detriment of reaching the overall position that it should not be assessed as a C3 use. I thus cannot conclude that the Authority's error in ultimately assessing the proposal against its housing policies was entirely unreasonable when set within this context.
8. Furthermore, the Authority considered that the proposal would also be contrary to the spatial strategy in terms of not reducing the need to travel, a position with which I have agreed, albeit to a lesser extent. The proposal's sustainability impacts of its location, the resulting harm caused, and the proposed benefits were a matter of planning judgement. As such, although conditions could have been used to remove the concern over any future potential change of use to a C3 dwelling, this would still not have resolved the Authority's wider concerns.
9. Importantly, the position regarding the future viability of the shooting function and the year round use of the building for that function were identified at the hearing to be significantly different than in the applicants' written evidence. Although I have allowed the appeal, my determination is not based entirely on the information before the Authority at the time of determining the application. The uncertainty over the long term future of the shoot and the potential for the appeal proposal to resultingly become the main use of the building, was a clear factor.
10. I also note that no specific viability evidence was provided for either the shooting function or for short term lettings. Although I identified this as unnecessary in this instance, again this justification and benefits of the proposal is a matter on which the Authority was entitled to consider under its planning judgement.
11. It would therefore be unfeasible to separate out and specify which of the applicants' time for this appeal was spent solely on those matters which were not entwined within these C1 use issues, the general viability of the Estate, its shooting function, and the sustainability impacts. Wasted expense has not occurred overall because the application would still have been refused even had the Authority made the same conclusion as I regarding its sui generis use, because it held a different planning judgement on those other relevant matters.

Conclusion

12. I therefore conclude that for the reasons set out above, while some unreasonable behaviour has occurred on the part of the Authority, some mitigating circumstances were evident, and with no resulting specific unnecessary or wasted expense during the appeal process overall as described in the PPG. For this reason, and having regard to all other matters raised, an award for costs is not justified.

L N Hughes

INSPECTOR