Planning Inspectorate

Costs Decision

Hearing held on 8 April 2025

Site visit made on 8 April 2025

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 16th June 2025

Costs application in relation to Appeal Ref: APP/N4720/W/24/3357930
43 Ings Lane, Guiseley LS20 8BY

- 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 Leeds City Council for a partial award of costs against A Lawson & Sons.
- The appeal was against the refusal of planning permission for the repair and conversion of farmhouse, attached barn and outbuildings into two dwellings, demolition of existing Dutch barn, alterations to detached outbuilding and construction of three new dwellings and associated covered car parking at New Birks Farm, 43 Ings Lane, Guiseley LS20 8BY.

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 (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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural, relating to the process, or substantive, relating to the issues arising from the merits of the appeal.

3. The Council submitted a written application for an award of costs against the applicants. It cites unreasonable behaviour resulting from inadequate evidence to support one of the material considerations that the applicants put forward. This refers to valuation and viability and the applicants' failure to address within their Statement of Case the viability assessment prepared by the Council's professional advisor. Instead, the applicants relied on their own valuation report and stated that viability should be discussed in a hearing.

4. The Council has contested the applicants' use of valuation to justify whether very special circumstances exist. Additionally, the Council has stated that the applicants have continued to make valuation arguments, as well as referring to viability within their statements and reports which are not based on advice within the PPG.

5. As these matters had not been fully addressed by the applicants, the Council has claimed that, instead of an appeal by written representations, a hearing has been required, resulting in wasted time and expense, and needing to engage the District Valuer to attend the hearing and undertake additional preparation.

6. The applicants' surveyor was instructed to prepare a valuation report, which they contended was a hybrid approach between viability and valuation. They stated that the timing of the submission of the District Valuer's report meant that they were unable to comment on it before the application was refused. Finally, they advanced that their valuation and the need to incentivise the owners to develop the site had not changed, and as they continue to disagree with the Council over this matter, a hearing was needed.

7. If there had been a full analysis of the Council's viability assessment in the applicants' statement of case, which would have enabled a direct comparison between the figures, it is likely that the hearing would have been avoided. I am therefore satisfied that the Council has had to incur the expense of employing the District Valuer to provide further advice and to attend the hearing.

8. At the hearing the Council made a second claim of costs. This followed discussions regarding the structural report. The applicants stated that costs would increase because option 1 to convert the buildings required a full rebuild, as opposed to the repair and conversion set out in the description and discussed within the report. Whilst the applicants contended that this did not differ from what had previously been set out, the Council considered that this contradicted the report and was confusing.

9. Although there have been test pits to assess the foundations, the condition of the buildings means that access has been restricted. Therefore, it is likely that the full extent of the repair and conversion would not be fully quantifiable until works began. Whilst contingency costs would be needed to cover such eventualities, I do not consider that the applicants' argument in this regard was unreasonable. Instead, they were explaining a possible outcome when converting buildings in this condition.

10. Notwithstanding this, I find that unreasonable behaviour, resulting in unnecessary or wasted expense as described in the PPG, has been demonstrated in relation to the issues surrounding valuation and viability, and the need for a hearing, and that a partial 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, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that A Lawson & Sons shall pay to Leeds City Council, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of rebutting the issues surrounding valuation and viability and preparing for the hearing, and these matters alone; such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The Council is now invited to submit to A Lawson & Sons, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M J Francis

INSPECTOR