



Costs Decision

Hearing held on 3 June 2025

Site visit made on 4 June 2025

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2025

Costs application in relation to Appeal Ref: APP/U2750/W/25/3362453 Upper Austby, Langbar, Ilkley LS29 0EQ

- 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 Harold Gray for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of planning permission for demolition of existing commercial buildings and erection of a bungalow with associated landscaping works.
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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. Paragraph 049 of the PPG¹ indicates that local planning authorities will be at risk of a substantive award being made against them for, amongst other things, preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; or failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances.
4. The applicant's claim is based on the assertion that the Council failed to recognise that the certificate of lawfulness previously granted related to the land as well as the structures on the site, failed to consider whether the appeal site constituted grey belt, and provided irrelevant and factually incorrect statements regarding the lifespan of the containers on the site and their permanence.
5. In my formal decision I have confirmed that the certificate of lawfulness only relates to the use of the containers as B8 storage facility, not the land. The certificate is unambiguous and precise and neither party sought to challenge it through the appropriate means. The Council took account of the certificate and what it allowed. Even though I have found that the land around the containers is associated with the B8 use this does not mean that the certificate relates to the land.

¹ Paragraph: 049 Reference ID: 16-049-20140306

6. The Council officer report does raise queries regarding the permanence of the containers. However, it uses the potential lifespan of such structures as one of the means to assess the permanence, alongside considering whether the containers were fixed to the ground or services. At the hearing the Council agreed that the existing units could be replaced without further permission. Nevertheless, the containers, albeit allowed to be on the site in perpetuity, are temporary structures. Neither they, nor the site as a whole, would fall within the definition of previously developed land as set out in the Annex to the National Planning Policy Framework (the Framework).
7. Furthermore, although I have found that the site would fall within the definition of grey belt land in the annex, the proposal would not comply with paragraph 155 of the Framework due to the unsustainable location.
8. The Council, within their statement of case and costs rebuttal, have clearly set out the reasons why the development was not acceptable given the location within the Green Belt and the National Landscape, their assessment of the harm to both and to encroachment into the countryside, and the lack of justification for a rural workers dwelling. The Council have set out their reasoning for the refusal and related the concerns to relevant development plan policies.
9. As detailed in my formal decision the proposal would be inappropriate development in the Green Belt and also would not be in a sustainable location. The proposal would, therefore, conflict with Policy GS4 of the Harrogate District Local Plan 2014-2035 (the LP). This harm is attributed weight in both the Council's decision and in my appeal decision. The weight the Council then attributed to the harm to the Green Belt and the National Landscape justified its refusal when considering the planning balance in paragraph 11d) of the National Planning Policy Framework.
10. The Council have clearly exercised the planning balance in attributing weight to the harms against the benefits that would result from the development. The weight to be given to any harm is a matter for the decision maker and that I found less harm to the Green Belt and National Landscape than the Council does not mean that the Council placed too much weight on these matters.
11. For these reasons, the Council was justified in making the decision it did. Although I have reached a different conclusion on the effect of the proposed development and the weight to be attributed to the existing use of the site, there is sufficient evidence that the Council had reasonable concerns about the proposed development which justified its decision. The appellant had to address those concerns and therefore the appeal could not have been avoided.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, thus the award of costs is not justified.

K Townsend

INSPECTOR