



Costs Decision

Site visit made on 21 May 2025

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 July 2025

Costs application in relation to Appeal Ref: APP/U2750/W/25/3359933

Land south of Lead Lane, Brompton, Northallerton DL6 2RG

- 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 Richard Roberts Ltd for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of planning permission for the erection of 4 no. self/custom build dwellings (Use Class C3) with all matters reserved except access.
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Decision

1. The application for an award of costs is refused.

Reasons

2. 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 applicant contends that the Council acted unreasonably by failing to properly distinguish the resubmission from a previously refused scheme, by not acknowledging or giving due consideration to a draft Unilateral Undertaking (UU) submitted with the application, and by failing to apply a nuanced assessment of heritage harm. It is also argued that the Council failed to recognise the evolving weight to be afforded to self-build housing, and that these shortcomings led to an inadequate assessment of public benefits and a refusal that could otherwise have been avoided.
4. It is acknowledged that the Council's officer report and internal consultation responses made reference to the previous appeal decision and drew comparisons with the earlier scheme. However, the Council was entitled to have regard to the planning history of the site, and the previous Inspector's findings were a material consideration. The Council's assessment of the current scheme did identify the proposed self-build nature of the dwellings, but concluded that this did not alter the level of heritage harm or justify a different outcome. Whilst the applicant disagrees with that conclusion, it does not follow that the Council failed to consider the current scheme independently. The Council was not bound to reach a different conclusion simply because the scheme had been amended.
5. With regard to the draft UU, it is acknowledged that the Council did not explicitly refer to it in the officer report. However, the obligation submitted at application stage was not in a completed or enforceable form. The Council was therefore not required to afford full weight to a draft obligation that lacked legal certainty, and its decision to do so does not amount to unreasonable behaviour.

6. The applicant also argues that the Council failed to apply a sliding scale approach to the assessment of less than substantial harm to a designated heritage asset. Although the PPG and case law recognise that such harm can vary in magnitude, the Council was entitled to conclude that the harm in this case was sufficient to outweigh the public benefits, particularly in the absence of a completed obligation securing the self-build element. The fact that I ultimately reached a different conclusion does not mean that the Council's position was unreasonable, as this reflects a matter of planning judgement.
7. Although the appeal has been allowed, I broadly agreed with the Council's assessment of heritage harm and found that the proposal would result in less than substantial harm to the significance of the Conservation Area. The appeal was allowed only on the basis that a completed and enforceable UU was submitted at appeal stage, securing the delivery of self-build housing, and other public benefits. The Council was not in possession of this completed obligation at the time of its decision and was therefore entitled to reach a different conclusion on the planning balance.
8. Accordingly, whilst the Council could have more clearly acknowledged the draft UU and the evolving policy support for self-build housing, its actions do not amount to unreasonable behaviour resulting in unnecessary or wasted expense. The application for an award of costs is therefore refused.

P Storey

INSPECTOR