



Costs Decision

Site visit made on 19 June 2025

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th October 2025

Costs application in relation to Appeal Ref: APP/U2750/W/25/3361703

Land to the South of Prospect Cottages, Prospect Cottages, Easingwold, North Yorkshire YO61 4PT

- 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 Messrs R, A & C and Mrs J Taylor of Richard Roberts Ltd for a full award of costs against North Yorkshire Council.
 - The appeal was against the refusal of planning permission for outline application for the erection of 20 no. dwellings (with all matters reserved except access, landscaping and layout) [Use Class C3] including demolition of existing barn and associated infrastructure.
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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 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 appellant considers that the Council has behaved unreasonably on a number of grounds.
4. First, that the Planning Committee did not undertake a site visit. However, there is no requirement that a visit should be undertaken. A Council officer had visited the site and photographs were available to the Committee. Although a Councillor did express regret that the Committee hadn't visited the site, it was still within the Committee's discretion to ask for a visit should it consider one was necessary. That the Committee did not ask for a visit and proceeded to determine the application indicates that they were satisfied with the evidence before them on which to make a decision. Moreover, given my conclusions on the Appeal, I am not persuaded that if a site visit had been undertaken then the Committee would have reached a different decision.
5. Second, that factual errors were not corrected during the Committee meeting. The crux of the appellant's concern is that a Councillor referred to the 'green belt' when discussing the proposal, although the site is not within or near the Green Belt. However, based on the evidence before me including the transcript extract, this term was used colloquially rather than indicating that the proposal was expressly considered as being Green Belt land. The Council emphasises that there was no discussion of Green Belt policy and that this was not referred to as a potential reason for refusal. Within that context, although a Councillor may have misspoken

- in referring to the green belt, it was reasonable that this was not corrected during the meeting and it does not demonstrate that in reaching its decision that the Committee behaved unreasonably.
6. Third, that there was unfair influencing of the decision through the exaggeration of the planning balance. The appellant refers to an Officer's use of the phrase 'a high bar' when considering less than substantial harm in respect of the Husthwaite Conservation Area (HCA). Although there is a material difference when assessing 'substantial' compared to 'less than substantial' harm in respect of designated heritage assets, paragraph 212 of the National Planning Policy Framework (the Framework) states that great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Given the reference within the Framework to 'great weight', I do not consider that the Officer's reference to a 'high bar' was unreasonable.
 7. Fourth, that the Council's assessment of heritage harm in the context of a former site allocation was unreasonable. The site had been allocated for residential development in a previous Local Plan, and both outline planning permission and reserved matters approval for residential development had been granted. The appellant submits that Council Officers had misled the Committee as to how harm should be assessed in respect of the appeal proposal when it had previously been concluded that planning permission should be granted.
 8. The appellant refers to the Committee Report for the Outline Planning Permission which states that "*The Development of the site as proposed is therefore unlikely to affect the setting of the Conservation Area...*". However, when considering a subsequent Reserved Matters application the Committee Report sets out that "*It is considered the proposal would have a degree of harm on the significance of the Conservation Area as there would be loss of existing open land and the replacement with dwellings...*", although it also concluded that the proposal was "*unlikely to significantly affect the significance of Conservation Area*".
 9. The allocation of a site in the development plan is a material consideration when assessing harm to the HCA, as are previous permissions, as this indicates that the principle of development has been accepted. This therefore affects the scope of considerations when assessing harm and the weight that should be given to it. I disagree with the Council's comment that it would be unreasonable to allocate a site and then refuse planning permission on heritage grounds, as there may be detailed matters including layout and design that could lead to harm to heritage assets even on allocated sites. Nevertheless, the allocation of a site is material to the assessment of the principle of development on a site, including the subsequent effect on heritage assets.
 10. That said, the conclusions of the Council in assessing harm to the HCA has changed compared to its consideration of the previous Outline Planning Permission. However, the Committee report on the Outline Planning Permission does not reflect my observations on the appeal site or my conclusions on the appeal proposal. Furthermore, a Previous Appeal Decision¹ relating to the development of 22 dwellings on the appeal site stated that the location of the development does not respond positively to the historic linear form of the HCA. An

¹ Appeal Ref: APP/G2713/W/23/3316000

Adjacent Appeal Decision² on an adjoining site also concluded that “*the Paddock and the other plots of land adjoining/adjacent to the site positively contribute to the setting of the HCA and its significance*”. My own observations and those of other Inspectors therefore indicate that it was the comments of the 2015 Committee Report relating to a previous Outline Planning Permission that were flawed, rather than the Council’s consideration of the current proposal.

11. Drawing the above together, the facts that the site is no longer allocated for development and that planning permission has lapsed are material changes in circumstance, and it is therefore reasonable for the Council to consider this changed context when assessing the proposal.
12. Fifth, the appellant contends that in the consideration of a Previous Appeal on the site it was concluded that the principle of development was deemed acceptable given the size, scale form etc. of the village. However, as set out in my Appeal Decision, my interpretation of that Previous Appeal Decision is that the Inspector did not reach that conclusion in respect of character and appearance or the effect on the HCA. It is clear from that Previous Appeal Decision that the Inspector’s reasoning was on the basis of the role of the settlement as a Service Village, rather than the principle of development on this particular site. To my mind it is the appellant that has misapplied the planning history of the site in this instance.
13. Sixth, that the Council failed to take account of the supporting information provided, and in particular an addendum to the Heritage Impact Assessment which contained a ZTV³ analysis. However, the Officer’s report does include an assessment of views of the site and the topography of the area including from within the HCA and from a footpath. This assessment reflects my own observations and I do not therefore consider it to be inaccurate. Although the ZTV analysis is not referred to in the Officer’s report, there is no requirement to do this given that the Officer had undertaken and explained their own assessment of visibility. The ZTV Analysis was also available to the Committee and the public during the life of the planning application. The Officer’s report has undertaken a robust assessment of the visibility of the proposal, and I do not consider that an explicit reference to the ZTV analysis would have changed the Committee’s decision.
14. Seventh, that the Local Authority did not provide a detailed response on the requirement and need for affordable housing within the village despite it being requested. However, the Council states that the information requested does not appear to exist specifically for Husthwaite. This is evidenced in the Officer’s report which refers to only secondary data being available. The Council sets out that a Needs Assessment should be undertaken based on a local survey, and cannot be undertaken during the life of a planning application.
15. The appellant refers to a scheme in Stillington which is in the same sub-area and where the Officer’s report refers to figures from that sub-area in assessing affordable housing need. However, this does not demonstrate that the figures as requested by the appellant are available for the village of Husthwaite itself. There is no substantive evidence to demonstrate that the secondary data used by the Council was inaccurate or that the Council’s conclusions on the weight given to affordable housing would have been different. In any event, I have dismissed the appeal after having assessed the proposal on the basis of the evidence before me

² Appeal Ref: APP/G2713/W/23/3315276

³ Zones of Theoretical Visibility.

regarding affordable housing. I therefore cannot conclude that the Council has prevented or delayed development by not having regard to material considerations.

16. Drawing the above together, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

David Cross

INSPECTOR