

Costs Decision

Site visit made on 5 July 2016

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17th August 2016

**Costs application in relation to Appeal Ref: APP/F4410/W/16/3149193
8 Main Street, Sprotborough, Doncaster DN5 7RF**

- 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 Mrs Ruth Mcquire (Optum Global Ltd) for a full award of costs against Doncaster Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the development of land without complying with a condition subject to which a previous planning permission was granted.
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Decision

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

Reasons

2. 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. The PPG states that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal.
 3. The basis of the appellant's application for costs is on the grounds that the Council acted unreasonably during the consideration of the planning application by Planning Committee (Committee) and which resulted in the decision to refuse planning permission being contrary to the recommendation of officers. The appellant contends that, as a consequence of the unreasonable behaviour of the Committee and a lack of any evidence on which to substantiate the reason for refusal, an appeal was necessary.
 4. The concerns raised about what happened at the Committee, and the differing views about that, are procedural matters that fall within the scope of local government accountability and are thus away from the appeal process. Moreover, elected members are not duty bound to follow the advice of their professional officers, but in not doing so the Council then has to demonstrate on planning grounds why a proposal is unacceptable and to provide evidence to substantiate that reasoning.
 5. The reason for the refusal of the planning application is relevant to the application and clearly states the policies of the Doncaster Unitary Development Plan (1998) and the Doncaster Core Strategy (2012) that the proposed development would be in conflict with. The Council's reason for refusal of the application is quite specific in defining the sources of noise and
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nuisance that may affect local residents. These relate to moving furniture for stacking at closing time, noise from customers sat outside and comings and goings from customers migrating from nearby establishments after their closing time.

6. In my view, these concerns are material considerations that are both relevant to the application for an extension of opening hours and the policy considerations which, amongst other things, require that development should not cause an unacceptable loss of residential amenity with regard to noise. The Council's refusal reason was thus relevant to the development proposed, specific and precise, and related to policies contained within the development plan. Moreover, in my decision to allow the appeal I have set out the reasons as to why I consider that the concerns of the Council could not have been adequately controlled by means of appropriate planning conditions.
7. The Council's appeal statement also adequately related the reason for refusal to the relevant policies in the development plan and dealt with suggested conditions, including those suggested by the appellant. Taking these matters into account, I find that the reason for the refusal of the planning application was adequately substantiated. I have also found that the Council had reasonable concerns about the impact of the proposed development which led to its decision to refuse planning permission. Although I have not agreed with the Council and I have therefore allowed the appeal that does not mean to say that the Council's concerns were wholly unreasonable or unfounded. Accordingly, I do not find that the Council failed to properly consider the merits of the scheme and therefore the appeal could not have been avoided.
8. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and having regard to all other matters raised, an award of costs is not justified.

Stephen Normington

INSPECTOR