
Costs Decision

Site visit made on 23 November 2016

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 9 December 2016

Costs application in relation to Appeal Ref: APP/L2820/W/16/3157391 11-12 Newland Street, Kettering, Northamptonshire NN16 8JH

- 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 PlayNest Ltd for a full award of costs against Kettering Borough Council.
 - The appeal was against the refusal of the Council to grant subject to conditions planning permission for the demolition of 11-12 Newland Street. New building to consist of 2 retail units and 28 flats. Change of use of part of the land from retail to residential.
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Decision

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

Reasons

2. National Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
 3. The application for costs centres on the assertion that, despite a full and uncontested recommendation for approval by officers, the planning application was rejected on the grounds that were fully addressed in the application. It was therefore unreasonable that the committee refused the application on unsubstantiated grounds.
 4. I accept that, having reviewed the evidence before me, substantial work had gone into liaising with Council officers to secure a positive recommendation for the planning application. I therefore further accept that having that application then refused by a planning committee could be frustrating.
 5. However, a recommendation to grant planning permission is purely that. Locally elected ward members who make up planning committees are entitled to come to a contrary view to an officer recommendation. In this case, and notwithstanding my own findings on the proposed development which is the subject of separate Decision, the committee resolved that the proposed development would cause planning harm and as a result not comply with the Development Plan. This was supported by a full assessment of all other considerations that were deemed material to the case.
 6. I am satisfied therefore, that Members considered that there were sound planning reasons for refusing planning permission, the reasons were complete,
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precise, specific and relevant to the application and they were substantiated with reference to the Development Plan.

7. It is for these reasons that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated and as such an award of costs is not justified.

John Morrison

INSPECTOR