
Costs Decision

Site visit made on 10 April 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 4th May 2017

Costs application in relation to Appeal Ref: APP/F1040/W/17/3167369 Land at Castle Way, Willington, Derbyshire DE65 6BW

- 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 G D Golding Skip Hire Limited for a full award of costs against South Derbyshire District Council.
 - The appeal was against the grant subject to conditions of planning permission for change of use of vacant land to an area of hard standing for skip storage (Use Class B8).
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Decision

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

Reasons

2. 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. Whilst the appeal decision found the condition contested to fail the tests of necessity and reasonableness this does not lead me to a conclusion that the behaviour of the Council had itself been unreasonable. The requirement for a noise assessment was a reasonable requirement to provide the evidence necessary to enable the Council to make an informed decision. This expense was neither unnecessary nor wasted and not incurred as part of the subsequent appeal.
4. The evidence is that the Council Committee had conducted a prior site visit and heard from both the appellant and an interested party before making a decision which had been the subject of prior debate. The Council is not bound by the recommendations of its officers and, given the location close to residential properties and the potential harm to health and wellbeing that might derive from noise, this matter is of some substance. Although the appeal succeeded in this case this is not indicative of unreasonable behaviour on the part of the Council.
5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Jonathan Price

INSPECTOR
