
Costs Decision

Site visit made on 20 June 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 23rd August 2017

Costs application in relation to Appeal Ref: APP/X1355/W/17/3171109 Garage block, Armstrong Close, Newton Aycliffe, DL5 4BJ

- 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 Mr Andrew Kitchen of Livin for a full award of costs against Durham County Council.
 - The appeal was against the refusal of planning permission for demolition of garages and construction of five dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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 submits that the Council has acted unreasonably in that it has gone against the advice of its officers, not based its decision on objective analysis of the context, has not determined similar cases in a consistent manner, and has not given due weight to relevant national policy.
4. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different conclusion is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. The Council submitted a lengthy statement of case in support of their position which accurately describes the locality of the appeal site and sets out why it considers the appeal proposal would be harmful both in terms of its effect on the character and appearance of the area and in terms of parking.
5. Whilst the statement was not accompanied by detailed technical evidence, and ultimately I did not support the Council's position with regard to car parking, the reasoning behind the refusal of planning permission was apparent. The Council also related the proposal to adopted and, at the time, emerging development plan policy.
6. A number of cases where the Council has granted planning permission for similar schemes are referred to and although I do not have the details of those cases before me, the Council has pointed to different site specific

circumstances leading to these decisions. It is not unreasonable for a local planning authority to consider each proposal on its own particular merits and in the light of specific circumstances and evidence.

7. The Council's statement of case also sets out how the decision was made in the light of the advice in the National Planning Policy Framework and the weight that the Council has subsequently given to the relevant development plan policies. It is evident that the Council have had regard to national policy from the third reason for refusal on the decision notice. There is nothing in the evidence of either party that would suggest that the decision of the Council was irrational or that it has prevented or delayed development which should clearly be permitted having regard to the development plan and other material considerations.
8. The Guidance is clear that where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

John Dowsett

INSPECTOR