
Costs Decision

Site visit made on 9 October 2019

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 November 2019

Costs application in relation to Appeal Ref: APP/A4520/W/18/3214469 Land to the west of Burger King and Travelodge, Leam Lane, West Boldon NE108YB

- 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 Martin Cleary for a full award of costs against South Tyneside Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for: Construction of business development (Class B1) comprising six office/workshop units (1 No. 4 unit block and 2 No. Detached units) with vehicular access from Roman Road via Leam Lane with associated hard surfaced parking/turning area.
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Decision

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

Reasons

2. The 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 appeals process.
3. The crux of the claim is that the Council refused planning permission for the proposed development of B1 Use Class Units despite the site being identified as potentially suitable for such development in the Strategic Land Review (SLR).
4. It is understandable that the applicant is aggrieved that planning permission was refused, given the apparent acknowledgement in the SLR that the site could be suitable for such use. However, planning authorities are required to determine applications in accordance with the development plan, unless material considerations indicate otherwise¹. In the case of the appeal site, it is located in the Green Belt and is therefore subject to a planning policy which tightly controls any inappropriate development. The SLR does not form part of the development plan.
5. The Framework set out the approach to such proposals and is clear that inappropriate development is by definition harmful to the Green Belt and should only be approved in very special circumstances.
6. The applicant has pointed to what he sees as the benefits the proposal would bring.

¹ Planning and Compulsory Purchase Act 2004, section 36(6)

7. However, the Framework requires the decision taker to give substantial weight to any harm to the Green Belt, and very special circumstances will not exist unless the harm is clearly outweighed by other considerations. In this case, the Council concluded that the SLR, and other benefits the proposal could bring, were not matters that would outweigh the Green Belt harm and therefore would not provide very special circumstances. Therefore, the Council's decision was reasonably based on policies in the development plan and the other material considerations.
8. The PPG is clear that where a local planning authority refuses planning permission for development not in accordance with the development plan, and no material considerations including national policy indicate that permission should have been granted, there should generally be no grounds for an award of costs against the planning authority².
9. On that basis, it has not been demonstrated that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense in the appeal process.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated.

Tim Wheeler

INSPECTOR

² Paragraph: 050 Reference ID: 16-050-20140306