The Planning Inspectorate

Costs Decision

Site visit made on 6 November 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2019

Costs application in relation to Appeal Ref: APP/E2001/W/19/3233050
Old Goole Youth Centre, Percy Street, Goole DN14 5SQ

- 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 Mike Fisher for a full award of costs against East Riding of Yorkshire Council.
- The appeal was against the refusal of planning permission for part change of use from youth centre (D1) to 6 No. 2-storey residential units (C3).

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 appeal process.

3. Paragraph 049 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples include: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failures to produce evidence to substantiate each reason for refusal on appeal; and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.

4. The applicant submits that the Council has acted unreasonably as they were advised by Officers to remove the parking, but it was refused at the Council Committee Meeting by Members of the Council for lack of parking; there was a failure to consider a deferral or the imposition of suitably worded conditions; there was a failure to take on-board professional advice from Officers; there was a failure to substantiate the second reason for refusal regarding amenity; an introduction of new matters and a failure to give sufficient weight to the fall-back position.

5. In this case I have noted the recommendation of the Council's Officer and that the applicant does acknowledge that Council Members, in making their decision, do not have to accept the recommendations of the Officer. Additionally, I note that there was little in the way of traffic or parking data before the Council Members. In this case, the Council exercised its planning judgement based on local knowledge and representations from local residents and concluded that the proposed development would be in conflict with the

development plan. Whilst the applicant has provided an appeal decision[1] to support his case on this matter, I find relatively little detail has been provided and I do not know what evidence was before the Inspector at the time of his decision. Consequently, I cannot be sure that it is entirely representative of the circumstances in the appeal before me, especially as his 'nebulous' comment does not relate to highways matters.

6. I find that in this instance, the decision is one of a matter of judgement and the Council Members in this case were entitled not to accept the professional advice of Officers as long as a case could be made by them for the contrary view. Notwithstanding any discussion that took place in reaching their decision, the Council's reason for refusal set out in the decision notice is complete, specific and relevant to the application. It also clearly states the relevant policies of the East Riding Local Plan Strategy Document 2016. I consider that the wording of the reason for refusal does not represent unreasonable behaviour.

7. The Council further supported their reason for refusal with a full statement of case. The statement expanded on the reason for refusal describing the reasons why the Council considered the proposal would conflict with highway safety and the concerns in relation to the living conditions of future and existing occupiers were adequately substantiated. Additionally, I do not find that new matters have been introduced at the appeal stage.

8. The Council have set out in their response to the application for costs, stating that, in making the decision to refuse planning permission Council Members of the committee were clearly aware of the fall-back position and gave it reasonable and appropriate weight. On the details before me, I find that no substantive evidence to the contrary has been provided that causes me to disagree with the Council on this matter.

9. It will be seen from my decision that I do not agree with the Council's refusal. However, the decision was a matter of judgement based on the evidence before the Council and they took into account the development plan. I am satisfied that the Council adequately substantiated its reason for refusal. In this case the appeal could not therefore have been avoided. The applicant also raises concerns with regards to the proceedings at the committee meeting, but I find that such procedural issues at Council meetings are not matters for the costs regime.

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated. As such, an award of costs is not justified.

W Johnson

INSPECTOR

[1] APP/A1015/W/19/3223162