



Costs Decision

Site visit made on 8 June 2020

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 11 August 2020

Costs application in relation to Appeal Ref: APP/X1355/W/20/3249227 29 Lawson Terrace, Durham DH1 4EW

- 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 Mrs Judith Thompson for a full award of costs against Durham County Council.
 - The appeal was against the refusal of planning permission for change of use from single dwelling house C3 with 2 bedrooms to HMO C4 with 4 bedrooms.
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Decision

1. The application is refused.

Reasons

2. Planning Practice Guidance (the 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 or wasted expense in the appeal process.
3. The Guidance is clear in setting out the circumstances in which a Council could be vulnerable to an award of costs against it. It goes on to cite as examples if the Council prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, or refuses planning permission on grounds capable of being dealt with by condition. Furthermore, the Guidance also states that a Council could be vulnerable if it fails to produce evidence to substantiate a reason for refusal, relies upon vague, generalised or inaccurate assertions about a proposal's impact unsupported by objective analysis or introduces substantial evidence at a late stage necessitating extra expense for preparatory work.
4. In this case I have noted the recommendation of the Council's officers to the planning committee. I am satisfied that the matter before the committee, and now before me, is one of judgement and Members were entitled not to accept the professional advice of officers provided that a robust case could be made to that end.
5. It will be seen from my decision that I agree with the decision reached by the Council and it follows that I also conclude that there were sufficient grounds for reaching that decision. Conditions would not, for reasons set out in my decision, adequately mitigate the proposal such that it could proceed. I am satisfied that the Council have adequately set out their case in reaching a different conclusion to that recommended by officers, and I am also satisfied that the Council have demonstrated that they considered the conclusions of a

range of appeal decisions in setting forth their case at appeal. As I have concluded that the appeal should be dismissed, it cannot be the case that the Council have delayed development which should otherwise have been approved.

Conclusion

6. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not therefore justified.

Graeme Robbie

INSPECTOR