
Costs Decision

Site visit made on 22 July 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Costs application in relation to Appeal Ref: APP/M4510/W/20/3249882 50 Clayton Street West, Newcastle upon Tyne NE1 4EX

- 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 Sukhwinder Dhillon for a full award of costs against Newcastle-upon-Tyne City Council.
 - The appeal was against the refusal of planning permission for the development described as "refurbishment and internal alteration of existing flats to form serviced apartments with replacement of existing front elevation upvc windows and cladding panels with new matching versions".
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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 appeal process. Costs may be awarded to any party regardless of the outcome of the appeal.
3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it behaves unreasonably with respect to the substance of the matter under appeal or with respect to procedural matters by 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.
4. The applicant submits that the Council has acted unreasonably in a number of different ways but including delaying development which should clearly be permitted and not substantiating the reasons for refusal, instead relying on "incorrect and subjective opinion" leading to the applicant incurring additional expense.
5. The submitted evidence, including that produced by the applicant, clearly shows that the appeal site is located in an area that experiences significant night-time noise and disturbance that would harm the living conditions of future occupiers. It will be seen from my decision in respect of the appeal, that appeal scheme is not development which should clearly be permitted.

6. The Council had adequately reasoned and substantiated their reasons for refusal in the officer's report and in subsequent appeal statements referring both to the submitted evidence of the applicant and the Development Plan.
7. As such, I do not find that the Council acted unreasonably causing the applicant to incur unnecessary or wasted expense in the appeal process.

Conclusion

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

Mark Brooker

INSPECTOR