
Costs Decision

Site visit made on 17 November 2020

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th December 2020

Costs application in relation to Appeal Ref: APP/M4510/W/20/3257005 405, Stamfordham Road, Westerhope, Newcastle Upon Tyne NE5 5HA

- 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 Anthony Lang for a full award of costs against Newcastle-upon-Tyne City Council.
 - The appeal was against the refusal of planning permission for change of use of existing ground floor area (currently Use Class A1) to proposed café/restaurant (Use Class A3) with the installation of extraction duct and filtration system to the rear to terminate 1 metre above eaves.
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Decision

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

The submission by Mr Anthony Lang

2. The applicant has advanced that the Council's reasons for refusal were unreasonable for the reasons set out in his appeal statement. He considers that the benefits of the scheme overwhelm the Council's stance.

The response by Newcastle-upon-Tyne City Council

3. The Council has respectfully requested that this application for costs be refused. They maintain that the applicant's application for costs is unfounded. They have advised that the site has a complex planning history and full regard has been given to previous planning decisions and appeals in arriving at their decision. They consider that although the appeal proposal is a slightly different scheme, the previous issues that led to a refusal of planning permission were not resolved by it.
4. Furthermore, the Council has advanced that the appeal scheme has been assessed independently by a different case officer and the determination process has been carried out in full accordance with the statutory provisions.

Reasons

5. It is clear from the evidence before me that the appeal site has been the subject of a considerable planning history. The decision that was reached by the Council is a matter of planning judgement made at a particular point in time.

Furthermore, the weight to be afforded to any conflict with the development plan and any other material considerations is a matter for the decision maker.

6. From the appeal submission before me and my site inspection, I have not found harm in respect to all of the main issues relating to the Council's reasons for refusal. Nonetheless, the harm that I did find was of a nature and degree that was not out-weighed by other considerations and therefore the appeal has been dismissed and some of the Council's objections supported.
7. No submissions have been made by the applicant that would indicate to me that the Council did not determine the planning application subject to this appeal in an impartial manner and in accordance with the provisions of s38 of the Town and Country Planning Act (1990).

Conclusion

8. For the reasons given above, I do not find that unreasonable behaviour from the Council on substantive grounds, as described in the Planning Practice Guidance (PPG) is evident. Consequently, neither has any unnecessary expense in terms of the preparation and submission of the relevant appeal occurred.
9. As the relevant tests set out in the PPG in respect to the determination of costs applications have not been met, I conclude that an award for costs is not justified.

C Dillon

PLANNING INSPECTOR