



Costs Decision

Site visit made on 25 January 2021

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 February 2021

Costs application in relation to Appeal Ref: APP/F4410/W/20/3262669 Millstone Hotel, Westgate, Tickhill, Doncaster DN11 9NF

- 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 L Nicholson (Bar 24 Ltd) for a full award of costs against Doncaster Metropolitan Borough Council.
- The appeal was against the refusal of planning permission for the change of use of former public house to ground floor retail and first floor residential including erection of extension following demolition of outbuildings).

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. It is put to me that the Council, prevented or delayed development that should have been permitted, failed to produce evidence to substantiate the reason for refusal and refused permission for a reason, in the case of landscaping, that could have been addressed by way of a condition.
4. The crux of the applicant's case is that planning permission should have been granted in accordance with the recommendation of the planning officer and, in respect of the highways matter, the advice of the Council's Highways specialist. The applicant contends that the Council have acted unreasonably in refusing planning permission and provided reasons for refusal which do not stand up to scrutiny on the planning merits of the case. Ultimately, the applicant feels that the appeal was unnecessary.
5. The fact that the application was refused planning permission contrary to the recommendation of officers is not an unusual situation. It in itself is not unreasonable and thus not a ground for a successful claim for costs.
6. The first reason for refusal related to the proposed landscaping. The Council did seek to substantiate its reason for refusal in its Appeal Statement and Costs Rebuttal citing concerns about the amount of planting, size and type of trees. Moreover, it cross referenced this with its requirements within its Supplementary Planning Document. Given the site's location in a prominent position within the Conservation Area it is reasonable for the Council to expect

- a quality landscaping scheme. In this regard it is not unreasonable for the Committee to exercise planning judgement on matters such as appearance, taking into account the particular circumstances of the case.
7. Whilst the type and size of tree could have been reserved by way of a condition, the amount of landscaping could not, without impacting on the proposed layout.
 8. With regards to the second reason for refusal, Highways advisors are consultees into the planning process, not decision makers in themselves. That role fell, in this case, to elected members of the Council's planning committee.
 9. The proposal would be materially different to its previous use with a mix of uses and different delivery needs. The Council do not dispute the vehicle tracking or visibility splay provided by the applicant. However, there was little in the way of traffic or parking data before the Council Members to assist in reaching their decision. 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.
 10. Although no technical evidence has been presented, the Council supported its reason for refusal within a full statement of case. The statement expanded on the reason for refusal, the concerns are explained in detail, drawing from local knowledge.
 11. 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 did take into account the development plan.
 12. Consequently, irrespective of the outcome of the appeal, I cannot find that the Council behaved unreasonably, relative to the main issues in offering a different view to my own, given the planning judgement involved.
 13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
 14. Accordingly, I determine that the costs application should fail, and no award is made.

Robert Walker

INSPECTOR