



Costs Decision

Site visit made on 25 January 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th March 2021

Costs application in relation to Appeal Ref: APP/V2723/W/20/3260002 Land to the north of Woodland Avenue, Colburn DL9 4WD

- 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 CG Robinson and CJ Leonard (C G Robinson & Sons Ltd and C J Leonard & Sons Ltd) for a full award of costs against Richmondshire District Council.
 - The appeal was against a failure to give notice within the prescribed period of a decision on an application for planning permission for the erection of a Use Class A1 / A3 drive thru' coffee shop (167 sq.m) and 3 No. Use Class A1 / A2 / A3 / A4 / A5 units (334 sq.m) with car parking, drive thru' lane, hard and soft landscaping, refuse areas and associated works.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, Planning Practice Guidance (PPG)¹ advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appeal was made against a failure to give notice within the prescribed period of a decision on an application for planning permission. The evidence indicates that the appeal was made following the deferral of the application at planning committee in September 2020. It is claimed that the Council have acted unreasonably in their determination of the application 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;
 - Failing to produce evidence to substantiate each reason for refusal on appeal; and
 - Making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. As can be seen from the decision letter, I have identified clear conflict with the development plan in respect of harm to the character and appearance of the area and the living conditions of nearby occupiers. The Council have not

¹ Paragraph: 030 Reference ID: 16-030-20140306

therefore prevented or delayed development which should have clearly been permitted and I do not identify unreasonable behaviour in this regard.

5. Whilst the minutes of the October planning committee included reasons on which the committee would have been 'minded' to refuse the application, the appeal was made against a failure to give notice within the prescribed period of a decision on an application for planning permission.
6. The application was not therefore refused by the Council and as such there are no reasons for refusal. Logically, the concerns of the committee were fed into the Council statement which sets out its objections which form the matters of disagreement and which form the basis of the main issues. I cannot therefore find that the Council have failed to produce evidence to substantiate reasons for refusal and I do not identify unreasonable behaviour in this regard.
7. The statement of case from the Council and the reasons upon which the committee were 'minded to refuse' the application clearly express the grounds on which the proposals were found to be unacceptable and details of relevant Local Plan Policy have been provided in support. Consequently, it follows that I am satisfied that the Council has not made vague, generalised or inaccurate assertions about the impact of the proposal, unsupported by any objective analysis and I do not identify unreasonable behaviour in this regard.
8. I note that Officers did not raise concern in relation to the effect of the position of the access on the living conditions of nearby occupiers. However, decisions around this topic are essentially matters of planning judgement and the Council members were entitled to raise this issue as a concern.

Conclusion

9. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for an award of costs is refused.

T J Burnham

INSPECTOR