
Costs Decision

Site visit made on 23 February 2021

by Sarah Manchester BSc MSc PhD MIEnvSc

an Inspector appointed by the Secretary of State

Decision date: 19th March 2021

Costs application in relation to Appeal Ref: APP/C2708/W/20/3263522 Former Railway Goods Yard, Clapham Station, Lancaster LA2 8ES

- 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 Terry Cunningham of Adam Park Homes for a full award of costs against Craven District Council.
 - The appeal was against the refusal of planning permission for Change of use of land from former Railway Goods Yard to 5no. Holiday Lodges (Phase 2).
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Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and the unreasonable behaviour has caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant is seeking to recover the full costs incurred in the appeal. This is based on alleged unreasonable behaviour by the Council including that Council Members refused permission contrary to the professional advice received and without adequate planning reasons; preventing or delaying development which should clearly have been permitted, having regard to its accordance with the development plan; failing to substantiate the reasons for refusal on appeal; vague, generalised or inaccurate assertions about the impacts, unsupported by objective analysis; refusing planning permission on planning grounds capable of being dealt with by conditions.
4. Council Members were entitled not to accept the professional advice of Officers so long as a case could be made to the contrary. In this regard, it was not unreasonable of Council Members to exercise their planning judgement based on local knowledge and the comments from local residents and to conclude that the proposal would conflict with policies in the development plan. However, the Council has not defended the Members' decision in any detail nor substantiated the reasons for refusal in the appeal process.
5. The Council's failure to expand upon the reasons for refusal will have given the appellant no clear focus in relation to its specific concerns or the particular matters that would need to be addressed in the appeal. The failure to set out its analysis of the impacts or defend its decision in the appeal process does constitute unreasonable behaviour by the Council. However, as can be seen

from my appeal decision, I do not agree that permission was refused on grounds that could have been dealt with by conditions.

6. I note the suggestion that the appeal might not have been made if the reasons for refusal had been formulated properly. The decision notice sets out that the concerns relate to matters including cumulative scale, design, materials and light pollution, with particular regard to impacts on the surrounding built environment and the landscape. The reasons also refer to the relevant policy. Therefore, while I acknowledge the applicant's concerns in relation to the wording, I am not aware that the decision notice is fundamentally flawed. Moreover, while I accept that the applicant might have proceeded differently in different circumstances, there is little evidence to demonstrate any specific circumstances whereby the appeal would have been avoided in this case.
7. I acknowledge that the parties engaged with one another and the scheme was amended during the processing of the application. The Council's decision will undoubtedly have been a disappointment to the appellant. Nevertheless, as can be seen from my appeal decision, I agree with the Council members in that there were sufficient grounds for refusing permission on grounds relating to harm to the character and appearance of the area. Given that I dismissed the appeal, it therefore follows that the Council did not prevent or delay development which should clearly have been permitted. Consequently, while the Council did act unreasonably in not substantiating the reasons for refusal it did not caused unnecessary expense.

Conclusion

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

Sarah Manchester

INSPECTOR