
Costs Decision

Site visit made on 11 May 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2021

Costs application in relation to Appeal Ref: APP/G0908/W/21/3267633 Former Natwest Bank, 14 High Street, Wigton, Cumbria CA7 9WY

- 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 J Tagg (Tagg Developments Ltd) for a full award of costs against Allerdale Borough Council.
 - The appeal was against the refusal of planning permission for conversion of former bank to provide 1 no. house and 2 no. flats.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) 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. It also states that examples of unreasonable behaviour by local planning authorities include lack of cooperation with the other party or parties and introducing fresh and substantial evidence at a late stage. Unreasonable behaviour in the context of an application for an award of costs may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).
3. The applicant considers that the Council has acted unreasonably by providing inconsistent advice, introducing late evidence, and refusing to engage with the appellant positively and constructively during the determination of the original application which led to an appeal being lodged unnecessarily.
4. They also state that different advice was given at pre-application stage. However, pre-application discussions are not binding, and it is clearly unfortunate if proposals are adjusted to suit but then the final outcome is an adverse one.
5. Furthermore, having reviewed the evidence before me, including relevant email correspondence, it is clear that the applicant was made aware that the proposed residential use of the front ground floor unit would be an issue and that appropriate and additional marketing evidence would need to be provided. Indeed, the email provided by the applicant highlights these matters. It also appears that the applicant was given opportunities to respond and provide this information.

6. Moreover, the Council's Officer report also sets out in some detail their reasons as to why they considered the proposed development unacceptable on these grounds.
7. It also appears to be the case that the change in case officers for the original application did not lead to an inconsistent approach to its determination. In any event, even if one case officer has a different view and forms a different planning judgement to another does not in and of itself constitute unreasonable behaviour.
8. Accordingly, I consider that the Council did not fail to cooperate with the other party and that they did not introduce fresh and substantial evidence at a late stage.
9. Therefore, in my overall planning judgement, it appears to me that having regard to the evidence before me the Council adequately explained the reasoning behind their decision. As a result, I find that the Council had reasonable concerns about the impact of the proposed development which justified their decision. The refusal of planning permission in this case therefore does not constitute unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the Guidance.
10. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated and that an award of costs is not justified.

C Coyne

INSPECTOR