



Costs Decision

Site visit made on 1 November 2021

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2021

Costs application in relation to Appeal Ref: APP/M4510/W/21/3277714 18 Portland Terrace, Newcastle Upon Tyne NE2 1QQ

- 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 Rajeev Saggar (SSPS NE Ltd) for a full award of costs against Newcastle-upon-Tyne City Council.
 - The appeal was against the refusal of planning permission for the change of use from Office Use (Class E) to 10 Bedroom HMO (Sui Generis), erection of stone pillars, boundary wall and railings, roof light to front, erection of single storey extension including 3 rooflights to rear and installation of 2 rooflights to rear offshoot, 1.8 metre high boundary wall and gates adjoining the back lane, dormer extension and roof light to rear and 5 bicycle racks to rear with associated canopy.
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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 and failed to produce evidence to substantiate the reason for refusal.
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. 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 resulting in unnecessary expense and delays to the project which have resulted in lost income.
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. Moreover, it is not unreasonable for the Committee to exercise planning judgement on matters such as character and noise and disturbance, taking into account the particular circumstances of the case.

6. The Council's explanation regarding an overconcentration of Houses of Multiple Occupation (HMO's) was brief and did not specifically cite the mixed use nature of the street and provided no technical evidence. However, the Council's statement did expand on its reasoning, the concerns are explained drawing from local knowledge, in relation to the number of bedrooms proposed, the occupation of the attached neighbouring properties as individual flats, quantifying the existing levels of HMO's in the street and concerns regarding the existing level of HMO's in the area.
7. It will be seen from my decision that I do not agree with the Council's refusal on the basis of the effects on the character of the area. However, I did agree with its refusal on the basis of the effects on the living conditions of the occupiers of neighbouring properties. Either way, the decision was a matter of judgement based on the evidence before the Council and they did take into account the development plan.
8. Consequently, irrespective of the outcome of the appeal, I cannot find that the Council behaved unreasonably, relative to the main issues.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
10. Accordingly, I determine that the costs application should fail, and no award is made.

Mr R Walker

INSPECTOR