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## Costs Decision

Site visit made on 5 January 2022

**by Katherine Robbie BA(Hons) DipTP MTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 24 January 2022**

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### **Costs application in relation to Appeal Ref: APP/X1355/W/21/3284492 4 North End, Durham DH1 4NG**

- 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 Claire Roper-Browning for a full award of costs against Durham County Council.
  - The appeal was against the refusal of planning permission for the Change of use from a C3 Dwellinghouse to a C4 House in multiple occupation, and the addition of 2No. roof lights with internal layout alterations.
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### **Decision**

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

### **Reasons**

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. It goes on to indicate that local planning authorities will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate a reason for refusal on appeal and vague generalised or inaccurate assertions about a proposal's impacts which are unsupported by any objective analysis.
4. The appellant states that the appeal was unnecessary because the proposal complies with the development plan and the refusal of planning permission has prevented and delayed development which should have been permitted. The appellant asserts that the Council's reasons for refusing planning permission are vague and unsubstantiated.
5. I consider that the reason for refusal set out in the decision notice is complete, precise, specific and relevant to the decision. It also clearly states which policies of the County Durham Plan that the proposal would be in conflict with and therefore the Council have not behaved unreasonably in that respect.
6. I do not agree that the Council have failed to substantiate their reasons for refusing the application. Planning law is clear that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. It was the Council's assertion that the proposal did not accord with policies in the development plan and have set out clearly why they think that is

the case. Therefore, the Council has not acted unreasonably in refusing the application.

7. I acknowledge that there has been some discussion as to whether the Purpose-Built Student Accommodation (PBSA) which the Council have identified falls under the definition of that type of accommodation and therefore whether the policy should apply in this instance. However, this has not led to the appellant to incur unnecessary or wasted expense to demonstrate otherwise. Therefore, the appeal has not resulted in any unnecessary or wasted expense on behalf of the applicant. Solely instructing an agent to undertake an appeal is not considered to be an unreasonable expense in this instance.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the Planning Practice Guidance has not been demonstrated.

*Katherine Robbie*

INSPECTOR