
Costs Decision

Site visit made on 26 January 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2022

Costs application in relation to Appeal Ref: APP/Z4718/W/21/3281950 Land adjacent to 60 Northgate, Cleckheaton BD19 3NB

- 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 D & M Middleton for a full award of costs against Kirklees Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of former dairy/snooker centre/storage and erection of 9 light industrial units.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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 and wasted expense in the appeal process. Costs cannot be claimed for the period during the determination of the planning application although behaviour and actions at the time of the planning application can be taken into account in my consideration of whether or not costs should be awarded.
3. The applicant's case for seeking an award of costs is grounded in substantive matters. Specifically, they consider that the planning sub-committee's decision to refuse the planning application, against the planning officer's recommendation, was unreasonable as they made vague, generalised or inaccurate assertions about the proposal's impact which was unsupported by objective analysis and thus prevented development which should clearly be permitted.
4. Although the planning sub-committee reached a different conclusion on the issue of living conditions, this was a matter of planning judgement and the Council is not duty bound to follow the advice of its professional officers. I note that the original recommendation to the committee was deferred to allow members an opportunity to carry out a site visit to assist with their understanding of the proposal, the site and wider area. The summary of the committee decision then indicates that the sub-committee resolved to refuse the application on the grounds of residential amenity (activities on site, comings/goings of vehicles causing noise) and that the conditions recommended by officers were not adequate to protect residential amenity.

5. Although this detail is somewhat limited, and the Council failed to submit a statement of case for the appeal, the evidence before me suggests that the committee's and, subsequently the Council's, decision was supported with substantive reasons based on the assessment of the site and its surroundings, interpretation of relevant development plan policies, having regard to all of the information available to it and other material considerations. This decision was supported by a relevant development plan policy. I therefore find that the Council substantiated its case on the effect of the proposed development on the living conditions of neighbouring occupiers and therefore find that it did not act unreasonably in coming to its decision in this respect.
6. Whilst it can be seen in my appeal decision that I come to a different conclusion to the Council with regards to the matter of living conditions, it is clear that there were fundamental disagreements between the parties relating to the merits of the proposal therefore the appeal process was unavoidable.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. A claim for costs is not therefore justified and accordingly it is refused.

H Ellison
INSPECTOR