



Costs Decision

Site visit made on 11 January 2022

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2022

Costs application in relation to Appeal Ref: APP/J3015/W/21/3279776 Babbington Hall, Westby Labe, Babbington, Kimberley NG16 2SS

- 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 Tony Sanderson for a full award of costs against Broxtowe Borough Council.
 - The appeal was against the refusal of planning permission for redevelopment of kennels to 5no. dwellings including demolition, access and landscaping.
-

Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (the PPG) indicates 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. Examples of unreasonable behaviour by Local Planning Authorities are set out in Paragraph 049 of the PPG.
4. The applicant has stated that the Council's Statement of Case offers no justification for the reason for refusal, and that the Council are attempting to justify the decision through the introduction of new reasons for refusal.
5. The Council states that the application was brought to Planning Committee for determination and Members can overturn an Officer Recommendation where they feel it fails to accord with Local Plan Policies. Members clearly felt that development would impact on the openness and amenity of the Green Belt. Very special circumstances were not forwarded in the approval recommendation as the view was that it accorded with policy, and the reason for refusal required the assessment of very special circumstances as part of the expansion of the refusal.
6. In this case I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
7. I find that the Council's reason for refusal is complete, precise, specific and relevant to the application. It clearly states the policy of the Development Plan and all other relevant matters that the proposal would conflict with.

8. The reason for refusal is adequately substantiated by the Council in the appeal statement, and they have exercised their planning judgement. I agree with the Council that the proposal does not comply with policy, but I disagree with the Council on the issue of Very Special Circumstances that exist. I am satisfied that sufficient consideration was given to the proposal when the planning application decision was made.
9. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision. The appellant had to address those concerns in any event.
10. Whilst I appreciate that the Council may not agree with the outcome of the appeal, the Council were not unreasonable in coming to that decision and there is no evidence to suggest that they have unreasonably prevented or delayed the development.
11. I therefore conclude that for the reasons set out above, unreasonable behaviour during the process has not been demonstrated and for this reason, an award of costs is therefore not justified.

Paul Cooper

INSPECTOR