
Costs Decision

Site visit made on 22 March 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2022

Costs application in relation to Appeal Ref: APP/N2739/W/21/3286927 Hollydene, South Duffield Road, Osgodby, Selby YO8 5HW

- 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 Gallaher of Nottinghamshire YMCA for a full award of costs against Selby District Council.
 - The appeal was against the refusal of planning permission for a transfer from private residential dwelling to operate as a business 24 hours a day providing care, works would commence upon the property to include a fully functional fire alarm system and fire doors November 2019 onwards.
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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 therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may be procedural and/or substantive.
3. The applicant claims that the Council has acted unreasonably by providing vague, generalised and inaccurate information about the proposal, including classification as a business use; when considering issues relating to residential amenity; and in considering levels of parking required by the proposal and the knock-on impact on highway safety.
4. Development plan policies relating to employment uses were identified in the reasons for refusal on the Council's decision notice together with a number of other policies. The proposal comprises the change of use from a C3 residential dwelling to a C2 residential institution to provide low-level care for up to four children. Whilst noting that a C2 use is primarily a residential use, the property would nevertheless be a place of paid employment for the support staff. The Council did not therefore act unreasonably in assessing the proposal against the identified employment policies.
5. Reason for refusal one relates to the intensification of use that would occur as a result of the proposal, and the effects this would have on the character and appearance of the area and living conditions of neighbouring residents. This reason for refusal relates to matters that are subjective in nature. Although the Council did not submit a statement of case, relying instead on its officer report, it is evident from the submissions before me that, in reaching the conclusions it did with regard to noise and disturbance, the Council considered the differences

between the existing and proposed uses of the site, in particular the increase in comings and goings, and set out its concerns in relation to this. This reason for refusal explains why the proposal was considered to be unacceptable and is framed within the context of the development plan.

6. The PPG states that where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application. I find this to be the case with reason for refusal one, notwithstanding that I have come to a different conclusion to the Council regarding the acceptability of the proposal with regard to these matters.
7. Reason for refusal two cited harm to the free flow of traffic and highway safety arising from a lack of on-site car parking provision, with reference to the relevant policies of the development plan.
8. There is no parking standard set for the specific type of use proposed in the Selby District Local Plan 2005 (the Local Plan) or North Yorkshire County Council's interim guidance¹ (the NYCC guidance). However, the NYCC guidance does state that a flexible approach should be taken in using the standards so that each development proposal is assessed on its merit. It also states that where a specific category is not listed standards will be determined by discussion. Ultimately, parking requirements are a matter of judgement based on the circumstances of the individual case. Therefore, whilst the parking provision requested by NYCC does not appear to specifically relate to any set of standards within either the Local Plan or the NYCC guidance, this does not mean that there has been unreasonable behaviour.
9. The applicant submitted evidence on this matter. The Council has not provided any substantive evidence other than its officer report and the responses received during the course of the application, including from NYCC. The officer report provides some information on its highways concerns.
10. Although provision is made for on-site parking, there may nevertheless be occasions where on-street parking occurs and therefore some potential to lead to vehicles waiting within the highway. There are therefore some legitimate concerns regarding the effects on traffic flow and the implications for highway safety. Whilst I have found that the frequency and effect of any such conflicts would be limited in the context of the proposal, this is a matter of planning judgement for the decision-maker. The Council's conclusion was not unreasonable in relation to the proposal.
11. For the above reasons, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

F Wilkinson

INSPECTOR

¹ Interim Guidance on Transport Issues including Parking Standards and Advice on Transport Assessments and Travel Plans, 2015