



Costs Decision

Site visit made on 22 March 2022

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01/11/2022

Costs application in relation to Appeal Ref: APP/J4525/W/20/3257868 Houghton Quarry, Newbottle Street, Houghton-le-Spring DH4 4AU

- 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 Ryan Peddie (Holystone Civil Engineering) for a full award of costs against Sunderland City Council.
 - The appeal was against the refusal of planning permission for The redevelopment of Houghton Le Spring Quarry landfill site, comprising a revision to the final landfill restoration contours; development of an employment park, consisting of offices (Use Class B1) (3,558m² gross floor space), and buildings for general industrial distribution and storage (Use Classes B2 and B8) (5,992m²) with ancillary trade counter units; solar PV/renewable energy generation area (3,000m²), associated ancillary infrastructure, access, car parking and landscaping at Quarry Row Houghton Le Spring without complying with conditions attached to planning permission Ref 12/03178/FUL, dated 28 October 2013.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. It also states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal or failing to determine the appeal scheme in a consistent manner to the previous permitted scheme. Unreasonable behaviour in the context of an application for an award of costs may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).
3. The applicant considers that the Council has acted unreasonably by: failing to produce evidence to substantiate each reason for refusal; making vague, generalised or inaccurate assertions about the proposed development's impact which are unsupported by any objective analysis; failing to determine the appeal scheme in a consistent manner to the previous permitted scheme; failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances; and not reviewing their case promptly following the lodging of an appeal against refusal of planning permission (or non-determination), or an application to remove or vary one or more conditions, as part of sensible on-going case management.

4. I note that the Council's officer report sets out in some detail their reasons as to why they considered the proposed development acceptable. However, the Council is not duty bound to follow the advice of its professional officers and it is within the democratic remit of members of a planning committee to make a planning decision against the advice of its officers.
5. The minutes of the planning committee meeting clearly highlight the concerns that some members had in relation to the proposal's potential impact on the Green Belt. The minutes also show that in making their decision the committee members had regard to the officer's original recommendation, the information and plans submitted by the appellant, the views of the representative of the Executive Director of City Development, the views of statutory consultees, and the views of interested parties. It is also clear that the agent had the opportunity to verbally address the committee to put forward arguments in favour of the proposed scheme.
6. Therefore, from the evidence before me the relevant planning merits of the scheme appear to have been explained to the members of the Council's planning committee and it is apparent that all the other information and evidence submitted by the applicant, was before them when they made their decision. Consequently, I am satisfied that the Council made its decision based on all the information and evidence before it including that submitted by the applicant and that it gave a clear reason for refusing the application. Likewise, I am also satisfied that it did not make vague, generalised, or inaccurate assertions about the proposed development's impact which are unsupported by any objective analysis.
7. It is clear from the evidence that while the appeal scheme was like the already permitted scheme there were amendments made meaning that it was not identical to it i.e., the development platform would be approximately 12 metres higher. As a result, I am also satisfied that the Council did not fail to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances.
8. After the appeal was lodged, as part of the appeal process the Council submitted an appeal statement justifying its case for the decision it made. It would be reasonable to think that part of this process was reviewing their case promptly. Indeed, the statement submitted by the Council sets out the detail of their case taking into account the appellant's evidence, including the Green Belt assessment and the officer's original recommendation. Consequently, I am satisfied that the Council reviewed their case promptly following the lodging of an appeal against refusal of an application to remove or vary one or more conditions, as part of sensible on-going case management.
9. Therefore, in my overall planning judgement, it appears to me that having regard to the evidence before me the Council: adequately explained the reasoning behind their decision; did not make vague, generalised or inaccurate assertions about the proposed development's impact which are unsupported by any objective analysis; did not fail to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances; and reviewed their case promptly following the lodging of an appeal against refusal of an application to remove or vary one or more conditions, as part of sensible on-going case management.
10. As a result, I find that the Council had reasonable concerns about the impact of the proposed development which justified their decision. The refusal of planning permission in this case does not constitute unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the Guidance.

11. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated and that an award of costs is not justified.

C Coyne

INSPECTOR