
Costs Decision

Site visit made on 3 April 2023

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2023

Costs application in relation to Appeal Ref: APP/G0908/W/22/3313340 Princess Hall, Princess Street, Workington CA14 2QG

- 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 Daniel Anders (Redacre Investments LLP) for a full award of costs against Allerdale Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for 'This Full planning application seeks planning approval for the demolition of the existing two storey vacant Princess Hall and the construction of a two storey mixed-use building accommodating 2no. retail units at ground floor with 7no. apartments at first floor, alongside 4no. two storey townhouses (all affordable homes). The accommodation is wholly affordable and is supported by car parking for both residential and retail uses (including for accessible bays and electric vehicle charge points), secure cycle parking and high-quality landscaped external communal amenity spaces and private gardens'.
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Decision

1. The costs application is allowed and full costs are awarded.

Reasons

2. The Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The application for costs is made on substantive grounds. It is claimed that the reason for refusal which was relied upon does not stand up to scrutiny on the planning merits of the case which led to additional costs to the appellant.
4. The evidence indicates that the decision was made by the Planning Committee against Officer recommendation. There was nothing in principle unreasonable about this.
5. However, whilst I have been supplied with the minutes of the committee meeting, they are very limited in detail and do not provide any detail as to how the decision was arrived at.
6. The application was refused due to 'Concerns over the traffic management with the effects on traffic safety and parking congestion'. This was the single refusal reason on the scheme. It is not clear from the refusal reason what, if any, development plan or other policy the proposal was considered to conflict with. The refusal reason was vague and made generalised assertions about the impact of the proposal.

7. Some further expansion on this matter was provided within the Council appeal statement where concerns over visibility splays on the Frazer Street access were identified due to the possible parking of cars within the visibility splays. There was concern that there was conflict with an MFS¹ diagram.
8. However, that reasoning is extremely narrow in scope and this arrangement is not always problematic, as detailed within the accompanying decision letter. The Local Highways Authority (LHA) raised no objections to the proposal. I consider that detailed and well supported reasoning would have needed to have been put forward in order to seek to justify departing from the position adopted by the LHA. I do not consider that this has been provided and the refusal reason has not been supported by any objective analysis.
9. There is therefore unreasonable behaviour with respect to the substance of the matter under appeal. Given that there was just this sole reason for refusal, a full award of costs is therefore justified.

Conclusion

10. Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to procedural matters relating to the process or substantive matters relating to the issues arising from the merits of the appeal.
11. I therefore find unreasonable behaviour around the substance of the matter under appeal that has resulted in unnecessary and wasted expense in the appeals process. A full award of costs is subsequently justified.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Allerdale Borough Council shall pay to Mr Daniel Anders (Redacre Investments LLP) the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Allerdale Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

T J Burnham

INSPECTOR

¹ Manual for streets 2.