



Costs Decision

Site visit made on 27 June 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st September 2023

Costs application in relation to Appeal Ref: APP/A4520/W/23/3315326 Former Jarrow Auction House, Bede Burn Road, Jarrow NE32 5AS

- 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 Premier Leisure for a full award of costs against South Tyneside Council.
 - The appeal was against the refusal of the Council to grant planning permission for the demolition of former auction house (formerly Park Methodist Church) and construction of five apartments with undercroft parking and associated works.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process. It is also clarified in the PPG that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, though behaviour and actions at the time of the planning application can be taken into account in the consideration of whether costs should be awarded or not.
3. The applicant is seeking a full award of costs and contends that the Council acted unreasonably by overturning the officer recommendation that the scheme should be approved and disregarding verbal advice from officers during the committee meeting that the proposal was policy compliant. It is alleged by the appellant that this unreasonable behaviour led to the unnecessary expense of commissioning consultants to prepare, submit and oversee the appeal.
4. While it is suggested that irregularities led to the case being called in and that late objections were accepted by the chairman at the meeting which impacted on the decision, this is a separate issue relating to administrative matters, which should be addressed directly with the Council. Similarly, the delegation arrangements and the triggers for the determination of planning applications by the Planning Committee are not matters on which I can comment as part of this costs decision.
5. The application was recommended for approval in the officer report, however it was refused at committee after discussion and debate because in the committee's view the scheme would not convey a sensitive consideration of its surroundings, and in doing so would be contrary to the provisions of Policy DM1 of the South Tyneside Council Local Development Framework Development

Management Policies (2011). While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.

6. In my view, the committee minute is detailed and explains the reasons why councillors did not agree with the assessment and came to a different conclusion. That is a matter of planning judgement, notwithstanding the officer recommendation.
7. It seems to me that the committee had regard to the representations made, the officer report and relevant planning policy and the reason for refusal is clear and sufficiently detailed. As such, I am satisfied that the Council substantiated their reasons for refusal adequately, clearly demonstrating on planning grounds why the proposal would be unacceptable in their view. While the Council have not provided a statement of case to support their decision, it is not clear that the appellant has incurred unnecessary or additional costs as a result.

Conclusion

8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and the application for an award of costs is refused.

F Harrison

INSPECTOR