



Costs Decision

Site visit made on 31 October 2023

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 February 2024

**Costs application in relation to Appeal Ref: APP/W4515/W/23/3327828
Land at Backworth Business Park, Ecclestone Close, Station Road,
Backworth, Newcastle upon Tyne NE27 0RX**

- 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 The Northumberland Estates for a full award of costs against North Tyneside Council.
 - The appeal was against the refusal of planning permission for the construction of 57 residential dwellings (Use Class C3(a)) and 14 No. commercial units totalling 650 sqm (Use Class E(g)), with associated road infrastructure, car parking spaces, open spaces, gardens, and landscaping.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises 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. I note that the council's decision not to defend the two reasons for refusal occurred after the submission of the appellant's evidence. The appellant had therefore incurred some costs responding to these reasons for refusal.
4. However, regarding the first reason for refusal, the acquisition of the neighbouring business property by the appellant and the withdrawal of the objection from the occupier of that commercial unit, that included specialist noise evidence, was a material change in circumstance.
5. The council detail that they only became aware of this change in circumstance on 14 September 2023, almost a month after the appellant submitted their statement of case on 15th August 2023 and subsequently resolved at committee on 26 September 2023 not to defend reason for refusal 1.
6. As such, I am satisfied that the council's response to a material change in circumstance was reasonable and timely. As such, I do not find the council's behaviour with regards this matter to have been unreasonable.
7. Turning to the second reason for refusal, it is readily apparent that the council was unable to substantiate the reason for refusal and subsequently chose not to defend this reason for refusal at appeal. I find that this behaviour was unreasonable leading directly to the appellant incurring wasted expense.

8. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of reason for refusal two relating to highways matters and a partial award of costs is therefore warranted.

Costs Order

9. 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 North Tyneside Council shall pay to The Northumberland Estates, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to the second reason for refusal, relating to highway matters; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to North Tyneside 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.

Mr M Brooker

INSPECTOR