



Costs Decision

Site visit made on 4 April 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2024

Costs application in relation to Appeal Ref: APP/X1355/W/23/3334662 Land at former filling station, A167, Nevilles Cross, Durham

- 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 Modobloc Nevilles Cross Ltd for a full award of costs against Durham County Council.
 - The appeal was against the refusal of planning permission for construction of 12no. townhouse dwellings to include undercroft parking, courtyard gardens, vehicular access, landscaped gardens, hard landscaped access/amenity areas, and soft landscaped perimeter treatment.
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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 thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The local planning authority (LPA) refused the planning application at planning committee, contrary to officer recommendation. The applicant considers that Members of the planning committee failed to take into account the professional advice and recommendations of officers and, overall, the LPA has acted unreasonably in its determination of the planning application.
4. The determination of planning applications by a planning committee is an established democratic process, and the committee reaching a different conclusion to that recommended by officers does not necessarily amount to unreasonable behaviour. The decision reached by the committee found that the proposal would harm the character and appearance of the area and result in harm to the significance of the Durham City Conservation Area (the CA). This was a finely balanced issue, as reflected in the accompanying appeal decision, in which I have ultimately reached the same conclusion as Members. As such, I am satisfied that the Members of the planning committee gave appropriate regard to the officer report, the representations made and all other evidence, and undertook a balancing exercise on this basis.
5. Despite matters of viability being previously agreed between the applicant and officers, I note the planning committee debate included discussion of viability and the capacity of the site, including its potential to accommodate a smaller scheme. Although I cannot be certain the extent to which this discussion

influenced the final decision, the planning application was not refused on this basis. As such, I find no evidence of unreasonable behaviour in this regard.

6. In allowing the appeal I have arrived at a different conclusion than that of the LPA planning officers. Nevertheless, as set out in the committee report, the main issues, particularly the effect of the development on the CA, were finely balanced. The assessment of such effects was therefore a matter of planning judgement. I am satisfied that Members of the planning committee arrived at their decision following proper process and in a reasonable manner.
7. Paragraph 049 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably, with examples of unreasonable behaviour including failing to produce evidence to substantiate each reason for refusal on appeal, or vague, generalised or inaccurate assertions about a proposal's impact.
8. In determining the appeal I have ultimately agreed with the LPA's decision, despite this being contrary to officer recommendation. As such, I am satisfied that the reason for refusal was appropriately substantiated and none of the criteria amounting to unreasonable behaviour as set out in the PPG have been met.

Conclusion

9. Based on the information before me, I find no unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has been demonstrated, as set out in the PPG. The application for an award of costs is therefore refused.

P Storey

INSPECTOR