



Costs Decision

Site visit made on 30 April 2024

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Costs application in relation to Appeal Ref: APP/X1355/W/24/3339936 Land South of South College, The Drive, Durham DH1 3LD

- 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 Ian Ward of Torsion Care Ltd for a full award of costs against Durham County Council.
 - The appeal was against the refusal of planning permission for the erection of a 74 bed care home facility (Class C2 Use), with associated access road, car parking, cycle storage, landscaping, boundary treatments and refuse facilities.
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Decision

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

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. The applicant is seeking a full award of costs and highlights substantive issues. It is indicated that the Council acted unreasonably by overturning the officer recommendation that the scheme should be approved and disregarding verbal advice during the committee meeting. It is alleged that this unreasonable behaviour led to unnecessary expense in having to appeal the decision.
4. The proposal was recommended for approval in the officer report, however after discussion and debate it was refused at committee because in the committee's view the proposal would result in unacceptable economic impacts, contrary to the provisions of Paragraph 85 of the National Planning Policy Framework (the Framework) and that this outweighs the policy compliance with the development plan and the benefits of the scheme.
5. 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. The PPG makes it clear that a local planning authority is at risk of an award of costs if it makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
6. In my view, the committee minutes are sufficiently detailed and explain the reasons why Members of the Council did not agree with the officer's assessment and came to a different conclusion. That is a matter of planning judgement, notwithstanding the officer recommendation or the advice of the

Council's planning and highways lawyer during the committee meeting. It seems to me that the committee had regard to the representations made, the officer report, relevant planning policy and the Framework. Furthermore, the reason for refusal is clear and sufficiently detailed.

7. While the appeal site has been identified as a suitable location for specialist housing as part of a wider masterplan, and even though the appellant may disagree with certain matters raised by Members of the Council, the reason for refusal clearly identified the alleged harm arising from the development. No new information was provided during the appeal in relation to the main issue and the Council's submissions largely rely on the Adult and Health Services' conclusions on the proposal's effects on current care home provision and the 'home first' strategy approach to older peoples housing. Nevertheless, I am satisfied that the reason for refusal was adequately substantiated, clearly demonstrating on planning grounds why the proposal would be unacceptable in their view.
8. The Council indicate that the provisions of Paragraph 85 of the Framework are important material planning considerations of relevance to the proposal, that indicate that a decision should be taken otherwise than in accordance with the development plan. While Paragraph 85 makes no specific reference to care homes, the Council, nevertheless, based on their interpretation of the broad policy statements within Paragraph 85, had a reasonable basis for its stance in refusing the scheme.

Conclusion

9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and I therefore conclude that an award of costs is not warranted.

F Harrison

INSPECTOR