



Costs Decision

Site visit made on 23 May 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2024

Costs application in relation to Appeal Ref: APP/X1355/W/24/3339046 4 Monks Crescent, Gilesgate, Durham DH1 1HD

- 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 Richard Watters for a full award of costs against Durham County Council.
 - The appeal was against the refusal of planning permission for change of use from dwellinghouse (Use Class C3) to house in multiple occupation (Use Class C4).
-

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 planning application was refused by the Council's planning committee, contrary to officer recommendation. The applicant considers that the unreasonable decision taken by Members of the planning committee has led to the delay of a development which should clearly be permitted, and has led to the appellant incurring unnecessary additional costs in pursuing the appeal.
4. Planning committees have the right to make decisions that differ from officers' recommendations, and doing so does not automatically indicate unreasonable behaviour. Nevertheless, the written ministerial statement accompanying the latest version of the National Planning Policy Framework states that overturning of a recommendation made by a professional and specialist officer should be rare and infrequent.
5. This case attracted significant public interest, and the committee's discussion is detailed in the meeting minutes. The main issue, as set out in my accompanying appeal decision, was the focus of discussion. The decision of the committee broadly aligned with the submissions of the development's main objectors.
6. The Council argues that Members afforded weight to firsthand evidence during their deliberations. The applicant, however, disputes this, claiming the evidence of those opposed to the development was merely anecdotal.

7. The Council's reason for refusal, and subsequent evidence at appeal, presented little to substantiate its concerns with specific relevance to the appeal site. Nonetheless, given the nature of the development, it is possible that those opposed to the development had firsthand experience of adverse effects arising through similar development, both near to the site and in the wider area. Members considered these concerns serious enough to constitute harm. Thus, I find these concerns to have a reasonable basis, aligned with development plan policies.
8. In allowing the appeal I reached a different conclusion than the Council. I determined that the potential adverse effects were not sufficient to amount to harm, and that the proposal would comply with the development plan as a whole. This difference in weighing the evidence reflects a matter of planning judgement. Accordingly, although the ultimate outcome was different to mine, I am satisfied that the Council's decision was made through proper and reasonable procedures.
9. 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. Although I disagreed with the Council's decision, I am satisfied that the reason for refusal was properly substantiated and did not meet the PPG criteria for unreasonable behaviour.

Conclusion

10. 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