



Costs Decision

Site visit made on 23 July 2024

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2024

**Costs application in relation to Appeal Ref: APP/A4520/W/24/3340346
Caesars Den Restaurant and Bar, 97 Newcastle Road, South Shields, South
Tyneside NE34 9AA**

- 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 Florence Property Developments Ltd for a full award of costs against South Tyneside Council.
 - The appeal was against the refusal of planning permission for the demolition of the Simonside Arms and planning permission for the proposed erection of 13 no. residential dwellings and associated access and landscaping.
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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 alleged that the Council acted unreasonably by refusing the proposal based on vague generalised and inaccurate assertions that are contradictory and unsubstantiated. In addition, it is suggested that the decision was politically driven rather than based on sound planning grounds.
4. While it is also suggested that the decision was pre-determined because some Members of the Committee read their objections to the proposal from a script, and notwithstanding the Council's costs rebuttal, this is a separate issue relating to administrative matters. Any potential issues of pre-determination should be addressed directly with the Council outside of the appeal process and are not matters on which I can comment as part of this costs decision.
5. 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, involving the loss of a protected tree on Hyperion Avenue, would harm the character and visual amenities of the area and would be harmful to highway safety from increased car parking and vehicle movements. It was also considered that the segregated pedestrian route through the site would result in harm to the safety and security of existing and future residents because of a lack of natural surveillance. In doing so, the proposal would be contrary to the provisions of Policy DM1 of the South Tyneside Local Development Framework Development Management Policies (2011) and the National Planning Policy Framework.

6. As accepted by the applicant, the Council is not duty bound to follow the advice of its professional officers. However, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence. The PPG sets out 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.
7. 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.
8. 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. No substantive evidence has been provided to demonstrate that the decision was made for political reasons. While the Committee undoubtedly considered the views of objectors, it was quite right to do so. Furthermore, there is no evidence of the decision having been unreasonably influenced by them.
9. The applicant may disagree with certain matters raised by Members of the Council, however the reason for refusal clearly identified the alleged harm arising from the development. Therefore, and whilst I found differently to the Council; in that there would not be a conflict with the development plan, I am satisfied that the Council substantiated its reasons for refusing the planning application, demonstrating on planning grounds why the proposal would be unacceptable in their view.

Conclusion

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

F Harrison

INSPECTOR