



Costs Decision

Site visit made on 19 June 2024 by Darren Ellis MPlan MRTPI

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2024

**Costs application in relation to Appeal Ref: APP/Y2003/W/23/3335074
312 Messingham Road, Bottesford, Scunthorpe, North Lincolnshire
DN17 2QY**

- 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 Gurmeet Singh Athwal for a full award of costs against the North Lincolnshire Council.
 - The appeal was against the refusal of planning permission for the change of use from a store room to a car garage to carry out repairs/tyre replacements etc.
-

Decision

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

Procedure

2. A representative of the Inspector has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons

3. The Planning Practice Guidance (PPG) advises that costs may only be awarded where a party has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
4. The PPG advises that a local planning authority is at risk of an award of costs for preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; for failing to produce evidence to substantiate each reason for refusal on appeal; and for vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. The applicant asserts that the Council have made assumptions and had no substantive evidence on which to justify a refusal on the grounds of noise and fumes against the advice of their own environmental protection department, failed to consider a potential fallback position, failed to consider or apply sufficient weight to the benefits of the scheme, and gave undue weight to the representations of local residents.
6. The original planning application was recommended for approval by officers and placed before Council Members for a decision. It is well established that Council Members do not need to follow the advice of their professional officers

- and are open to exercise their own planning judgement, but in doing so, are required to adequately substantiate their position.
7. I have recommended that the appeal is allowed and I have therefore disagreed with the Council's reasons for refusing permission. However, this does not mean that the Council has acted unreasonably in refusing the application.
 8. The minutes of the first Committee meeting show that it was decided to defer making a decision until a site visit had been carried out in order to better appreciate the site. Whilst the minutes of the second Committee meeting give limited detail, they do outline that, based on their observations from the site visit, Members raised concerns from what they considered to be the potential for unacceptable noise and fume impacts, which would have a detrimental effect upon the living conditions of neighbouring residents.
 9. While no substantive evidence may have been before Members to rebut the applicant's Noise Impact Assessment, the Council has clearly and concisely explained why they considered the proposal would be unacceptable.
 10. Overall, I am satisfied that the Council adequately substantiated their position, have not made vague assertions, clearly set out their reason for refusal and did not give undue weight to the representations of local residents.
 11. I accept that no mention is made of the benefits of the scheme in the Committee minutes. However, it does not necessarily follow that those benefits were not taken into account. Nevertheless, based on the Council's concerns that the noise and fumes would be unacceptable, I am not convinced that the Council would have found the benefits sufficient to outweigh the harm.
 12. The Council disagrees with the applicant and states that the building was previously a storage building under Use Class B8 (Storage or Distribution). Any fallback position under Use Class E would consequently have carried no weight.
 13. It seems to me that in this case there was a fundamental disagreement between the parties over the merits of the scheme. The decision to refuse the scheme was not unreasonable. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Appeals Planning Officer

Darren Ellis

Inspector's Decision

14. I have considered all the submitted evidence and my representative's report and, on that basis, I agree with the recommendation and shall refuse the application for an award of costs.

A Price

INSPECTOR