



Costs Decision

Site visit made on 17 September 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2024

Costs application in relation to Appeal Ref: APP/R2330/W/24/3342974 Crown Ground, Livingstone Road, Accrington, Lancashire BB5 5BX

- 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 D Burgess [Accrington Stanley Football Club] for a full award of costs against Hyndburn Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for the demolition of existing building and associated turnstiles, entrances and temporary buildings to rear of South Stand; construction of new hospitality areas, supporters bar and new high level television camera gantry.
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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 process¹.
3. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the procedural handling of the case, and the substance of the matter under appeal. The applicant's cost claim is made on the basis that the Council acted unreasonably in preventing development which should clearly have been permitted.
4. The Council's decision notice is specific and relevant to the proposal. The reason for refusal is clearly articulated and states the relevant policies of the development plan that the proposal would be in conflict with. Notwithstanding the officer recommendation for approval, the apportionment of weight is a matter for the decision maker.
5. It appears from the evidence before me that the committee attached different weight to residents' views, as is its right. In this instance those views were informed by a neighbours first-hand account at the meeting of events taking place. The committee is not obliged to rely solely on technical evidence in its decision-making role. I find no evidence that members of the planning committee contravened the guidance set out in the 'Probity in Planning – advice for Councillors and Officers in making decisions².' Even if it did not refer the application back to a future committee meeting there is no evidence that

¹ PPG paragraph 028 Reference ID: 16-028-20140306.

² The Local Government Association and Planning Advisory Service.

this forms part of the Council's procedure with regard to committee decisions. Moreover, this document appears to be advice and there is no evidence to indicate it is mandatory. This matter does not amount to unreasonable behaviour on the part of the Council but instead, highlights the difference of opinion between the parties, in respect of the planning merits of the proposal.

6. In my decision I have found that the Council had reasonable concerns regarding the impact of the proposed development upon the living conditions of neighbouring occupiers, that were not assuaged by the suggested conditions, which justified its decision. The Council's decision was made during a public meeting such that there is no evidence it was not made in a fair, impartial and transparent way.
7. The Hann Tucker Report does not provide a full endorsement for the acceptability of the proposal subject to the recommended conditions. Rather it is clear that there needs to be a package of measures including upgrading the acoustic properties of the building, to mitigate the adverse effect on neighbouring residents, exerted by late night events with loud music.
8. I acknowledge the applicant's evident frustration with their perception of the Council's approach. However, insofar as is relevant to this costs application, based on all of the evidence before me, I find no action taken by the Council amounts to unreasonable behaviour as described in the PPG. Given that I have found unreasonable behaviour has not occurred, I am not required to consider whether unnecessary expense has ensued.

Conclusion

9. Unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

M Clowes

INSPECTOR