



Costs Decision

Site visit made on 10 September 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2024

Costs application in relation to Appeal Ref: APP/F3545/W/23/3335762 51A Chels, Bury Road, Newmarket, Suffolk CB8 7BY

- 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 Daniel Nicholls for a full award of costs against West Suffolk Council.
 - The appeal was against the refusal of planning permission for change of use of the existing swimming pool to be used by swim school.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application relies on the fact that Council Officers recommended that planning permission be granted for the proposal, but that Council Members took a different course of action without adequate reason to do so.
4. The PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate reasons for refusal.
5. In this case, I have noted the recommendation of the Council Officers. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view. The reason for refusal clearly sets out the perceived policy conflict and the appeal submissions have sought to expand upon the concerns.
6. I have found in my appeal decision that there would not be significant harm arising from the proposal. However, this was a matter of planning judgement, and that the Council has set out its reasoning for reaching a different conclusion in determining the application. While I do not agree with that conclusion, I do not consider that the Council acted unreasonably in refusing permission.
7. Consequently, I cannot agree that the Council has acted unreasonably in this case.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore refused.

R Gee

INSPECTOR