



Costs Decision

Site visit made on 9 December 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th January 2025

Costs application in relation to Appeal Ref: APP/F1040/W/24/3348462 14 Morley Walk, Church Gresley, Swadlincote, Derbyshire DE11 9DQ

- 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 Ms Senzeni Kamere of Lundi Education and Care for a full award of costs against South Derbyshire District Council.
 - The appeal was against the refusal of planning permission for change of use from residential dwelling (Class C3) to single self-contained two bedroom independent living/care dwelling (Class C2) with one staff bedroom.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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 PPG makes it clear that a local planning authority may be at risk of a substantive award of costs if it fails to substantiate its reasons for refusal at appeal, and/or makes vague generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The Council refused the planning application against officer advice. While a planning committee is entitled to make decisions that are contrary to the officer recommendation, there is an expectation that where this occurs it should show reasonable planning grounds for taking a contrary decision and produce sound, substantive and defensible evidence on appeal to support the decision in all respects.
5. The first reason for refusal alleged that the proposal would result in an over-intensive use of the dwelling that would be harmful to the living conditions of the occupiers of neighbouring dwellings. I do not dispute that matters of noise and disturbance are material planning considerations. However, there is a clear lack of analysis within the Council's reasoning in relation to how the proposed use would compare to the existing property as a family dwelling. In the absence of any objective analysis informed by robust evidence, it cannot be reasonably argued that noise and disturbance resulting from the use of the property as a residential home would be materially different to that of a domestic family residence. Indeed, in my accompanying decision I explain why I find no basis to the objection on these grounds. Furthermore, the Council's Environmental Health officers and the Officer Report raised no objection in

relation to matters of noise and disturbance. Under these circumstances, I am unable to conclude that the reason for refusal was informed by robust, objective analysis or indeed stands up to scrutiny on the planning merits of the case. Thus, I find that there was no reasonable basis for the Council to justify a refusal of the planning application on this basis.

6. The second reason for refusal alleged that the proposal would have an adverse impact on highway safety due to inadequate parking provision. The Council's evidence provides minimal analysis of the existing highway safety situation and fails to assess any potential effects attributable to the appeal proposal on the highway. The Council's statement of case focuses on the useability of the garage as a parking space and the arrangement of the parking spaces but provides no assessment relating to how this could potentially harm highway safety. It is also noted that the local highway authority raised no objections to the proposal. Thus, I consider that the Council has failed to produce evidence to substantiate its highway safety reason for refusal on appeal, and that it has made vague assertions about the proposal's impact, which are unsupported by any objective analysis.
7. The planning application was submitted in October 2020 but not determined until June 2024. The Council has not provided a reason for the delay in determining the application. This has significantly delayed development that should have been granted.
8. Accordingly, I am of the view that unreasonable behaviour as described in the PPG has been demonstrated on the part of the Council and has resulted in the applicant's unnecessary expense in contesting the appeal. A full award of costs is therefore warranted.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Derbyshire District Council pay to Ms Senzeni Kamere of Lundi Education and Care, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to South Derbyshire District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

U P Han

INSPECTOR