



Costs Decision

Site visit made on 4 December 2024

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20th January 2025

Costs application in relation to Appeal Ref: APP/J4525/W/24/3346911

Hetton Car Sales, Station Road, Hetton-le-Hole, Houghton-le-Spring, Sunderland DH5 9JB

- 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 Ramalingham Sutheswaran for a full award of costs against Sunderland City Council.
 - The appeal was against the refusal of planning permission for proposed change of use of former car sales / showroom to a retail convenience store / supermarket, plus alterations to existing shop front and introduction of two chiller condensing units.
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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. To justify an application for costs, the PPG requires clear evidence demonstrating how alleged unreasonable behaviour has resulted in unnecessary expense. This could relate to the entire appeal or only part of the process.
4. In this case, the Council's planning committee refused the planning application contrary to the officer's recommendation. The applicant asserts that the decision disregarded the technical advice of the Council's Highways Officers and it was refused for spurious reasons. It is alleged that there are no physical, material or actual planning reasons for refusal, and the Council behaved unreasonably in reaching this decision, resulting in the unnecessary expense of undertaking the appeal process.
5. The determination of planning applications by committee is a well-established democratic process. Committees are entitled to depart from their officers' recommendations, and doing so does not inherently constitute unreasonable behaviour.
6. This case attracted significant public interest. The committee's refusal reason reflects, to a large extent, the objections raised by the public, and concerns voiced by committee members. The Council later submitted additional evidence to support the appeal, including swept path drawings, to substantiate its concerns set out in the refusal reason. Although this evidence was unavailable when the planning

application was determined, it nevertheless provides technical detail that aligns with the concerns discussed during the committee debate, as recorded in the minutes.

7. In allowing the appeal, I reached a different conclusion than the Council. However, in my accompanying appeal decision, I acknowledge that some of the concerns set out by the Council and interested parties were reasonable in the context of the relevant development plan policies. While I ultimately concluded that the potential adverse effects were insufficient to constitute harm, and that the proposal would comply with the development plan as a whole, this was a matter of planning judgement. I acknowledge that the weighing of these issues was a finely balanced process. Therefore, although the Council's decision differed from mine, I am satisfied that it was reached through proper and reasonable procedures.
8. Paragraph 049 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably, with examples of unreasonable behaviour including failing to produce evidence to substantiate each reason for refusal on appeal, or vague, generalised or inaccurate assertions about a proposal's impact. Although I disagreed with the Council's decision, I am satisfied that the reason for refusal was properly substantiated and did not meet the PPG criteria for unreasonable behaviour.

Conclusion

9. Based on the details before me, I find no evidence to demonstrate that the unreasonable behaviour of the Council has resulted in unnecessary or wasted expense during the appeal process. The application for an award of costs is therefore refused.

P Storey

INSPECTOR