



Costs Decision

Site visit made on 2 October 2024

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2025

Costs application in relation to Appeal Ref: APP/J3015/W/24/3344388 Beeston Car Centre, Broadgate, Beeston, Nottingham NG9 2HD

- 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 Hall for a full award of costs against Broxtowe Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of an existing car garage and construction of residential accommodation comprising 12 studio flats and 2x 6-bedroom C4 (HMO) cluster flats.
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Decision

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

Procedural Matters

2. On 2 September 2024 the appellant submitted to the Planning Inspectorate a letter seeking an award of costs in relation to this appeal. This included internal review comments and was therefore evidently a draft version but, in the usual way, it was shared with the Council which responded with its own comments on 11 September. On 18 September the appellant, having spotted that the draft costs claim had been submitted contacted the Planning Inspectorate pointing out the error. The Planning Inspectorate Case Officer then contacted the Council on 19 September, inviting the Council to submit an amended response if it wished to do so. While the Council chose not to submit further comments, in view of the fact that it had the opportunity to do so I am satisfied that no party's interests have been prejudiced by these events.
3. The response originally submitted by the Council included (at paragraph 4.1) a reference to flooding which had not in fact been referred to in the costs claim. I have therefore treated this as drafting error; it has not had any significant bearing on this decision.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance ("the 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.
5. Paragraph 049 of the PPG sets out examples of the types of unreasonable behaviour which may give rise to a substantive award of costs against a local planning authority. These include "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", "failure to produce evidence to substantiate each reason for refusal on appeal",

and making “vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis”. The applicant’s claim falls broadly within the scope of these three examples.

6. The application to which the appeal related was refused by the Council’s planning committee against the recommendation of its officers. The three reasons given related to the scale and massing of the proposed building and its effect on the character of the area (“RFR1”), to the mix of housing proposed (“RFR2”), and to the effect on local facilities and services including the potential loss of an existing business on the appeal site (“RFR3”). That the committee did not accept the recommendation of its officers is not in itself an indication that the Council acted unreasonably; it is entitled to disagree with the recommendation put before it. However, the reasons for refusal need to be substantiated at appeal.
7. The proposed development would introduce a modern building of markedly different style and appearance to its immediate neighbours. I note the variety of analysis and illustrative material put forward by the applicant, but even in the face of this the Council committee was entitled to come to the conclusion it did. The Council’s appeal statement defended its reasoning in respect of RFR1 in reasonable, if brief, terms even though I did not ultimately agree with them.
8. The Council’s analysis in respect of the proposed housing mix was rather more uncertain. It acknowledged in its appeal statement that its 2022 *Houses in Multiple Occupation* Supplementary Planning Document (“the SPD”) is vague on how calculations relating to the saturation of HMO accommodation in an area should be calculated; it is therefore perhaps not surprising that I found its appeal evidence in respect of RFR2 to be similarly vague. However, I do not accept the applicant’s suggestion that the SPD was not directly relevant to the appeal scheme at all; the proposed development includes HMO elements and it was therefore valid to treat the SPD as a material consideration, notwithstanding its evident imperfections in relation to this case.
9. The appeal scheme would result in the existing business operating from the appeal site ceasing trading; certainly from the appeal site, and possibly completely. For reasons set out in my main decision, the Building for Life criteria referred to by the Council in RFR3 (and referenced in Policy 17 of the 2019 Broxtowe Local Plan) were therefore relevant to the proposal, though I also found that the Council had applied a particularly rigid interpretation of those criteria with which I disagreed. Nevertheless, it was entitled to do this. However, the further point in RFR3 relating to harm arising from the appeal development placing additional demand on services in the Beeston area, and undermining local distinctiveness, was not addressed in any meaningful way in the Council’s appeal evidence and was not therefore substantiated.
10. Taking these points together, I consider that RFR2 and RFR3 could sensibly be described as not having been adequately substantiated, and therefore either as “vague” or “unsupported by objective analysis”, at least in part. To these extents therefore, I consider that the Council acted unreasonably in the terms set out in the PPG. However, in order to make an award of costs I need to be satisfied that this resulted in unnecessary or wasted expense.
11. As I have explained above, regardless of the planning committee’s decision to determine the application against the recommendation of its officers, its reasoning in respect of RFR1 and (in part) RFR3 was substantiated in its

evidence, albeit in terms which I did not find persuasive. On this basis, it seems likely that the planning application would still have been refused, and the appeal would have gone ahead in any event. The applicant would therefore in any case have been likely to appoint a consultant to fight the appeal.

Conclusion

12. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated, and an award of costs is not warranted.

M Cryan

Inspector