



Costs Decision

Hearing held on 30 October 2024

Site visit made on 29 October 2024

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2025

Costs application A in relation to Appeal Ref: APP/M4510/W/24/3342084 7-45 Lime Street, Ouseburn Valley, Newcastle upon Tyne, NE1 2PQ

- 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 Rob Cameron of Property@LimeSt for a full award of costs against Newcastle Upon Tyne City Council.
 - The appeal was against the refusal of planning permission for the demolition of existing structures and erection of 4 to 6 storey mixed use building comprising 57 apartments along with Class E accommodation at ground floor level including parking and ancillary accommodation.
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Decision

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

Preliminary Matter

2. It is slightly unusual for each of the main parties to make an application for an award of costs against the other. I have considered each costs application on its merits. However, to ensure clarity, I have dealt with the two costs applications separately.

The submissions for Rob Cameron of Property@LimeSt

3. The costs application was made in writing after the Hearing had closed, following verbal agreement on a timetable for submissions by the parties at the event. This case is made in relation to substantive behaviour which includes 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, and failure to produce evidence to substantiate each reason for refusal on appeal.
4. In refusing permission contrary to the Officer Report for the Assistant Director of Planning and the recommendation to grant permission, Members had no clear basis for arriving at either of the refusal reasons, and thereby differing from the carefully measured investigations and analysis reported to them by their own Planning Officer.

The response from Newcastle City Council

5. The Council responded in writing after the Hearing had closed, following verbal agreement on a timetable for submissions by the parties at the event. The decision taken by committee was a matter of judgement on matters of planning balance based on the evidence before the Council, and the committee did take into account

the development plan. Both Reasons for Refusal (RfR) are based on up-to-date local development plan policies.

Reasons

6. 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.
7. The PPG¹ states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples 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; vague, generalised or inaccurate assertions about a proposal's impact and which are unsupported by any objective analysis, amongst other things.
8. I find that the decision on the planning application was a matter of judgement and in this case, I have noted the recommendation of the Council's Officer. Consequently, 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 Council refused the application for reasons relating to heritage and living conditions, contrary to the recommendations of its Officer. I find the Council's RfRs on its decision notice are complete, precise, specific and relevant to the application. It also clearly states the policies of the development plan, which it considers the proposed development to be in conflict with and cites conflict with the National Planning Policy Framework, in respect of RfR1. An appeal statement has also been submitted to support these RfRs.
9. It will be seen from my Decision that I do not agree with the Council with regard to the amount of weight attributed to the public benefits associated with the proposed development, which ultimately outweighed the 'less than substantial harm' that I identified to the significance of the Lower Ouseburn Conservation Area (the Conservation Area) as a designated heritage asset, albeit my reasoning also involved the demolition of a locally listed building, which was largely overlooked. Nonetheless, I did not agree with the applicant in this regard either, as they considered there would be no harm to the significance of the Conservation Area.
10. Whilst I have found misgivings, surrounding the amount of weight that should have been attributed to the response from Historic England and the relevance of Policy DM16 of the Newcastle upon Tyne Development and Allocations Plan 2015-2030, adopted June 2020, in respect of RfR1, these matters fall shy of unreasonable behaviour.
11. With regards to living conditions, I agreed with the Council on this matter in reaching my Decision, as I found there would be harm to future occupants, but only on matters surrounding daylight. Whilst the area of dispute narrowed during discussions at the event to 3no. units, the wording of the Council's decision notice still provided enough detail at the outset. Whilst, the applicant does not agree with the Council's case, that does not mean the Council has behaved unreasonably in

¹ Paragraph 049 Reference ID: 16-049-20140306

refusing the planning application for the reasons cited on its decision notice. In any event, even if the Council had reached a similar view to mine on heritage matters, an appeal would still have been highly likely in respect of living conditions.

Conclusion

12. I consider the expenses incurred in making the arrangements for and attending the Hearing were reasonably expected and necessary. Consequently, I find no substantive nor procedural grounds for an award of costs. I therefore find that unreasonable behaviour as claimed, resulting in unnecessary or wasted expense as described in the PPG, has not been demonstrated.
13. For the reasons given above, I conclude that a full award of costs is not justified.

W Johnson

INSPECTOR