



Costs Decision

Site visit made on 4 March 2025

by N Armstrong BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Costs application in relation to Appeal Ref: APP/X1355/W/24/3355299

50 Prebends Field, Gilesgate, Durham DH1 1HH

- 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 Steven Argument for a full award of costs against Durham County Council.
 - The appeal was against the refusal of planning permission for construction of two storey side extension, additional off-street parking and change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class Sui Generis).
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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. The PPG makes it clear that a local planning authority may be at risk of a substantive award of costs if it prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, 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 applicant considers that the Council has behaved unreasonably in refusing planning permission that officers had recommended for approval, resulting in unnecessary and wasted expenses and the delaying of development, not counting what they refer to as considerable loss in rental income. The applicant refers to a trend where they state the Council has refused similar applications, contrary to officer advice. This includes proposals that would not exceed the relevant policy threshold pertaining to the concentration of houses in multiple occupation (HMO) in an area and without substantive evidence of detrimental impacts. The applicant also states that planning conditions could have been imposed to mitigate impacts on neighbouring residents.
5. The Council's response states that the applicant has not put forward any evidence of losses incurred, and that they have not justified how the Planning Committee's decision to come to an alternative decision is unreasonable. It states that the Committee is not bound by the officer recommendation and made its decision

based on relevant planning policies, other material considerations and representations from interested parties. The Council notes that loss of rental income is not a reasonable cost to claim. This falls outside of the costs regime, which is acknowledged by the applicant in their further comments.

6. In this case I have noted the recommendation of the Council's officers. However, the decision is one which has incorporated planning judgement and has taken into account a significant level of public interest. The Planning Committee was entitled not to accept the professional advice of officers, so long as a case could be made for the contrary view. The Committee's consideration of the proposal is detailed in the minutes of the committee meeting. The main area of discussion was the main issue as set out in my accompanying appeal decision, which broadly reflected the submissions of the objectors to the development.
7. Policies 16, 29 and 31 of the County Durham Plan 2020 were cited by the Council in its decision notice, which are relevant to matters of achieving mixed and balanced communities, sustainable communities and the living conditions of neighbouring residents. I acknowledge that those opposed to the development may have experience of some adverse effects arising through similar development near to the site and in the wider area. The Planning Committee considered these concerns serious enough to be harmful in this case as a matter of planning judgement, and these matters were covered by the Council in its appeal statement.
8. With regard to the suggestion of a trend in such decisions by the Council, I note the appeal decisions within the applicant's appeal statement. However, I have not been provided with evidence of a substantive trend of such decisions to clearly demonstrate that this has resulted in unreasonable behaviour in this instance.
9. I have allowed the appeal, and I do not find harm in this instance when considering the proposal against the development plan as a whole. However, although the Council made a different decision to mine with a difference in weighing the evidence on the main issue, I am satisfied that it was not unreasonable to do so in this instance. Their decision was a matter of planning judgment based on the development plan and other material considerations pertaining to the main issue of the appeal, and the Council has set out its reasoning for reaching a different conclusion in determining the application. In refusing the application the Council has also taken a view that planning conditions would not make the development acceptable. While I do not agree with the overall conclusion, I do not consider that the Council acted unreasonably in refusing permission.
10. Notwithstanding my decision to allow the accompanying appeal, I find that the Council have been able to substantiate the reason for refusal against development plan policy and other material considerations, exercising its planning judgement, and their behaviour is not unreasonable in this instance having regard to the PPG.

Conclusion

11. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as defined in the PPG, has not been demonstrated. Accordingly, the application for costs is refused.

N Armstrong

INSPECTOR