



Costs Decision

Site visit made on 20 May 2025

by **N Armstrong BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 July 2025

Costs application in relation to Appeal Ref: APP/X1355/W/25/3361937

63 Frank Street, Gilesgate Moor, Durham DH1 2JF

- 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 Sugar Tree Limited for a full award of costs against Durham County Council.
 - The appeal was against the refusal of planning permission for the change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including single storey rear extension, formation of car parking area, cycle parking and bin storage.
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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 applicant is seeking a full award of costs on the basis that the Council has acted unreasonably in refusing planning permission against the recommendation of their officers and have shown inconsistency in their decision making. The PPG makes it clear that a local planning authority may be at risk of a substantive award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. An example includes not determining similar cases in a consistent manner.
4. The applicant has cited planning applications and decisions for similar development at 21 Frank Street¹, 48 Frank Street², 58 Frank Street³ and 61 Frank Street⁴ in its appeal documents. The assessment set out within the Council's delegated officer reports for the related applications determined that the properties are not on a primary access route for the purposes of Policy 16 of the County Durham Plan (2020) (the CDP). In the case of the appeal for 58 Frank Street, the Council did not highlight the property as being on a primary access route. The applicant contends that the decision taken by the Planning Committee is therefore inconsistent with these decisions, resulting in unreasonable behaviour.

¹ Planning application ref DM/22/03667/FPA

² Planning application ref DM/23/01774/FPA

³ Appeal Ref APP/X1355/W/24/3351686, dated 26 March 2025

⁴ Planning application ref DM/22/02205/FPA

5. The Council states that three of the applications were determined under delegated powers and not considered by Planning Committee, whilst the appeal decision for No 58 was not available at the time that the application was determined. The Council states that the Planning Committee is not bound by the officer recommendation and came to its own conclusion, having regard to relevant policies and other material considerations, including representations from interested parties.
6. I have noted the recommendation of the Council's officers, and the decision is one which has involved exercising planning judgement. 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. This clearly included discussion on the main issue as set out in my accompanying appeal decision, as well as taking into account the location of the Purpose Built Student Accommodation (PBSA) in relation to bus stops in the area.
7. As set out in my accompanying decision, the CDP does not define what a primary access route is. The Council's evidence states these could reasonably be described as the most likely route taken by residents of the PBSA when travelling between PBSA and the town centre/university campus(es). The choice of route taken by pedestrians would largely be a matter of both personal preference and the convenience relative to the end destination. Without a clear definition, the Planning Committee has exercised planning judgement on whether Frank Street is a primary access route.
8. Based on the discussion of the Planning Committee noted in the minutes of the meeting and the evidence in their written statement, as well as my own observations on site, I do not consider it to be irrational for the Council to make a judgement that Frank Street could be a primary access route. Whilst the delegated officer reports that have been cited provide a different assessment, I note that they do not go into specific detail as to why that is the case. From the information before me, these other applications were also not before the Planning Committee or part of the planning application when the decision was made. Whilst officers provided advice at the meeting based on their judgement, it would not be reasonable for them to also have full knowledge and details of all similar applications available at the time the decision was being made. The Council has also provided reasoning in an attempt to substantiate the decision to refuse planning permission.
9. I have allowed the appeal, and I do not consider the property to be on a primary access route or find harm in this instance when considering the proposal against the development plan as a whole. Although the Council made a different decision to mine, and despite this being inconsistent with some recent decisions, recognising the importance of consistency in decision making, 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, site specific circumstances 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. While I do not agree with the overall conclusion, I do not consider that the Council acted unreasonably in refusing permission in this instance having regard to the PPG.

Conclusion

10. 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