
Costs Decision

Site visit made on 27 June 2017

by Andrew McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 July 2017

Costs application in relation to Appeal Ref: APP/A2525/W/178/3171261 Sainsbury's, Holland Market, Spalding PE11 1RQ

- 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 Sainsbury's Supermarkets Ltd for a full award of costs against South Holland District Council.
 - The appeal was against the refusal of planning permission for installation of Timpson's pod within customer car park.
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Decision

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

Reasons

2. 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. Paragraph 49 of the PPG sets out examples of unreasonable behaviour by local planning authorities. 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 consideration and failure by the planning authority to substantiate a stated reason for refusal of planning permission.
4. The appellant states that the Council has behaved unreasonably by the Planning Committee not following the officer recommendation and, in refusing the proposal, it did not identify reasonable grounds for doing so. Therefore, the decision was not based on sound planning principles. Furthermore, the appellant argues that the Council acted unreasonably by only assessing the proposal against part of Policy SG14 of the South Holland Local Plan 2006 rather than considering it against the entirety of the policy. As a result, the appellant appealed the decision and, it is argued, has incurred unnecessary and wasted expense in doing so.
5. Planning Committees are an acceptable and justified part of the planning system. Committee Members are not obliged to accept the recommendations of their officers and are entitled to reach a decision which is different or contrary to their officers. Notwithstanding this, when taking such a decision contrary to that which is recommended, it is expected that the reasons given are justified and clearly based on planning grounds.

6. The appellant states that by taking a different view to that recommended by the officer in this case, Committee Members are to be criticised for not taking a positive and proactive approach to making decisions as no reasonable justification for refusal has been provided. Given that the principal issue in this case relates to design and appearance which, by its nature, is subjective and a matter of judgement, I find this to be an inappropriate accusation.
7. Committee Members clearly disagreed with their officer regarding the impact of the proposal on the character and appearance of the area and on pedestrians. Based on the information provided, whilst different to my findings in the appeal decision and the case officer, I find that the Committee was entitled to make its judgement. In my view, the decision was formed on the basis of the proposal being objectively assessed against what the Council considered to be the relevant policy considerations. Furthermore, the Committee considered that the weight it gave to the harm it identified outweighed the benefits put forward in favour of the proposal. In addition, the Council's reason for refusal clearly sets out the reasoning and justification as to why, in the Council's view, the proposal would be contrary to particular, relevant local and national policy.
8. Having had regard to all of the above, I find that the Committee Members were entitled to refuse the proposal as a matter of planning judgement. Accordingly, the Council did not act unreasonably in relation to preventing or delaying development by not following officer advice or relevant planning policy. Nor did it fail to clearly set out, substantiate and justify its reason for refusal on planning grounds.
9. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Andrew McCormack

INSPECTOR