



Costs Decision

Site visit made on 3 March 2026

by **F P Tinsley MA (Hons) MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27th April 2026

Costs application in relation to Appeal Ref: 6002715

13-15 Frederick Street, South Shields, NE33 5DY

- 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 appeal is made by Banana Moon Nursery against the decision of South Tyneside Council.
- The appeal was against the refusal of planning permission for 'large rear extension of existing building (single storey, but to eaves level) and enclosure of existing hardstanding rear yard to facilitate change of use of rear ground floor to separate commercial storage and distribution area (use class B8) with the retention of lawful use class E operations to the front as a cafe/restaurant with ancillary takeaway/delivery, with new shopfront and roller shutters to front and Rear and new air conditioning units and new extraction/filtration, duct and cowl systems terminating upwards at flat roof level above second storey.'

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 Council, in reaching its decision to refuse planning permission, did not challenge the principle of development, including the sustainability of the site and the use of brownfield land. It was concluded that there is no significant harm in respect of design and visual impact on the street scene or highway safety, and that the use of the property was acceptable in principle. I am satisfied that appropriate weight was attached to these considerations in the Council's determination.
4. The Council were also clear in their reason for refusal that, in their view, the development was contrary to Policy DM1 of the South Tyneside Local Development Framework and paragraph 135 of the National Planning Policy Framework (the Framework), which require, amongst other things, that development is acceptable in terms of its impact on residential amenity. The Council considered that the development failed to meet this requirement in respect of both loss of daylight and sunlight and loss of outlook.
5. In relation to the loss of daylight and sunlight arising from the development, the Daylight and Sunlight Report submitted with the appeal was not before the Council at the time the planning application was determined. It did not form part of the

planning application documentation. That document has been fundamental in reaching my conclusion that the level of daylight and sunlight harm resulting from the development is acceptable. In the absence of this evidence, the Council's conclusions on this matter were not unreasonable, particularly having regard to the scale of the development and its close proximity to the rear windows of No. 11. I also note that this assessment was informed by a site visit undertaken by the Council.

6. With regard to the issue of harm arising from the development to the outlook from the rear windows of No. 11, there has been a material change in outlook arising from the development. The views south-eastwards towards New George Street are lost, and the outlook is instead be confined to built form located in close proximity to the rear of the dwelling. While the Council reached a different view to me as to the acceptability of this change in outlook, its conclusion was not unreasonable.
7. The development before me is not one for which planning permission should clearly be granted. My conclusions in respect of the proposal have been informed by evidence that was not available to the Council at the time the application was determined. In those circumstances, I do not find that the Council's decision was unsupported by objective analysis. Indeed, the Council applied the 45-degree guideline in its assessment of the impact on outlook. While I have determined that a more flexible approach to the application of that guideline is appropriate in this case, recognising that it is intended as an aid to decision-making rather than a determinative rule, this does not render the Council's original assessment and subsequent conclusions unreasonable.
8. I do not find that the Council ignored or disregarded relevant national planning policy in its determination of the planning application and, as such, unreasonable behaviour has not occurred in this regard.

Conclusion

9. In view of the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, an award of costs against the Council is not justified.

F P Tinsley

INSPECTOR