
Costs Decision

Site visit made on 14 February 2017

by S D Harley BSc(Hons) MPhil MRTPI ARICS

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

Decision date: 15th March 2017

Costs application in relation to Appeal Ref: APP/V4630/W/16/3164430 9-11 Park Street, Walsall WS1 1LY

- 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 Mecca Bingo Ltd for a full award of costs against Walsall Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for change of use from vacant retail unit to Mecca electronic bingo centre with ancillary food and drink operation; alterations to entrance doors; and erection of air conditioning compressors.
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Decision

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

Reasons

2. The applicant considers that the Council behaved unreasonably in not providing a sufficient, reasoned, policy based justification for refusing the planning application and that a key Member of the Planning Committee had not attended the meeting with an open mind as required but had arrived with his decision already made and accompanied by a fully typed up refusal reason. Moreover, the applicant considers that Member exerted a clear, dominant and vocal influence on the Committee as he spoke significantly longer than any other Councillor on the appeal application, and the preceding item, and unduly affected the determination of the application.
3. The Council responds that the reason for refusal was clear and unambiguous; sets out the development plan policies which the proposal failed to meet, and the decision meets the tests for appropriateness and certainty. Moreover, one Member alone is insufficient to make a determination on a planning application.
4. The Planning Practice Guidance says that, irrespective of the outcome of the appeal, costs may only 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 process¹.
5. The most relevant development plan policies are set out on the decision notice. Whilst I have allowed the appeal the judgement was finely balanced. On this basis I do not consider the Council failed either to take account of development plan policies or material planning considerations or failed to defend the appeal.

¹ Paragraph: 030 Reference ID: 16-030-20140306

6. The Council has not disputed that a Member arrived with a typed up reason for refusal. This may be indicative of a closed mind but is not necessarily conclusive. The behaviour of Members is more a matter for the Council but overall I am not persuaded there is evidence to demonstrate that the Council's behaviour was unreasonable.

Conclusion

7. For the reasons set out above I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is not justified.

SDHarley

INSPECTOR