
Costs Decision

Site visit made on 26 April 2017

by Y Wright BSc (Hons) DipTP MSc DMS MRTPI

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

Decision date: 9 May 2017

Costs application in relation to Appeal Ref: APP/W4325/W/17/3167563 ASDA Arrowse Park, Woodchurch Road, Woodchurch CH49 5PD

- 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 ASDA Stores Limited for a full award of costs against Wirral Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for construction of a four pump (eight filling position) full automated Petrol Filling Station within the curtilage of the existing store; to include fuel storage tanks, associated pipework, overhead canopy, forecourt surfacing, Air and Water unit and reconfiguration of car parking bays.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises 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 process.
 3. The Appellant has applied for an award of costs on the basis that the Council has added a new reason for refusal, namely the impact of the proposal on residential amenity in the form of 'noise and disturbance'.
 4. The Council in its reason for refusal includes the statement that the proposal would result in '*a source of unacceptable levels of traffic movements and congestion along an already busy road which would be to the detriment of the amenities of the locality*'. The Council has since clarified in its appeal statement that this relates to noise and disturbance from traffic generation and congestion. The Council points specifically to the concerns raised by local residents during the planning application process in this regard.
 5. Whilst I accept that the reason for refusal does not specifically mention noise and disturbance, it does clearly refer to the effect of the additional traffic and congestion on local amenities. Whilst the Head of Environment & Regulation (Pollution Control Division) does not object to the proposal, Members of the Planning Committee are entitled to come to a different conclusion. The Minutes of the Planning Committee clearly show that the decision to include reference to '*detriment of the amenities of the locality*' was determined at the meeting.
 6. Although in allowing the appeal I have come to a different conclusion to the Council, for the reasons set out above I consider that the Council has not
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raised a new reason for refusal. The Council has therefore not acted unreasonably in this regard.

7. In conclusion I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For the reasons given above, the application for an award of costs is therefore refused.

Y Wright

INSPECTOR