
Costs Decision

Site visit made on 9 January 2018

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 01 February 2018

Costs application in relation to Appeal Ref: APP/R0660/W/17/3186936 Kings Arms Service Station, Alderley Road, Wilmslow SK9 1PZ

- 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 Mr Isa Dajci for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of planning permission for change in use of land from former petrol station to a hand car wash and valet business with associated single-storey building and canopy.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance 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. Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the appeal, for example by unreasonably refusing an application or by a failure to produce evidence to substantiate each reason for refusal on appeal.
3. The Council did not submit a Statement of Case in support of its reasons for refusal in accordance with the relevant timescales set out in the Planning Inspectorate's Procedural Guide for Planning Appeals – England and the letter issued to the parties on receipt of the appeal. That failure is acknowledged in the Council's rebuttal to the application for an award of costs. The Council sought to submit a statement after the relevant date. However, as I received notification of this request only after I had completed my site visit, the statement was not accepted as late evidence. To have done so would have delayed the issue of the decision.
4. The Council is entitled not to accept the advice of its professional officers and to reach a decision on a planning application which is contrary to the recommendation of those officers. When it does so it must be able to show that it had reasonable grounds for taking that decision and must produce evidence at the appeal stage to substantiate each of its reasons for refusal of planning permission. By not submitting a Statement of Case the Council has failed to explain why it took a decision contrary to the professional advice it

received and failed to substantiate the reasons for the refusal of planning permission.

5. I find that these failures amount to unreasonable behaviour on the Council's part and that, had the officers' advice been followed, the appeal could have been avoided entirely. That unreasonable behaviour has, accordingly, resulted in the appellant incurring unnecessary and wasted expenditure in submitting the appeal and related evidence. A full award of costs is, therefore, justified.

Costs Order

6. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Cheshire East Council shall pay to Mr Isa Dajci, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
7. The applicant is now invited to submit to Cheshire East Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Paul Singleton

INSPECTOR