



Costs Decision

Site visit made on 3 July 2018

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 28th August 2018

Costs application in relation to Appeal Ref: APP/J4423/W/18/3195114 89 Green Lane, Ecclesfield, Sheffield, SW35 9WY

- 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 T Shah for a full award of costs against Sheffield City Council.
 - The appeal was against the refusal to grant approval for use of an office building as residential accommodation.
-

Decision

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

Reasons

2. 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 appellant submits that the Council has acted unreasonably in its determination of both the current appeal application and a previous application at the site (Ref 17/03386/ORPN). In this regard, the appellant contends that no feedback was provided until just prior to the refusal of both applications. In addition, the appellant states that the Council did not fully consider the submitted noise survey and disregarded its findings and recommendations.
4. With regards to the Council's provision of feedback prior to issuing its Decisions, PPG states that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage. Costs cannot be claimed for the period during the determination of the application¹. In any case, given the objections raised by the Council, it is not clear that these matters could have been overcome within the 56 day determination period so as to have avoided the appeal.
5. In terms of the submitted noise report, the Council took the view that the proposed mitigation measures were not practical as they would require the windows to be kept shut in order to achieve the desired noise reduction. I concur with this view. In any case, this is a matter of planning judgement and the Council did not act unreasonably in this regard.

¹ Paragraph: 033 Reference ID: 16-033-20140306

6. The appellant also contends that the Council did not identify at an early stage which of the surrounding industrial premises were of concern, which led them to wrongly assume that the industrial units to the east were the main concern. However, I note that the appellant's Noise Survey by NOVA Acoustics Ltd focusses on noise at both the front and rear of the building, and not at the east-facing side elevation. Moreover, it also specifically identifies the haulage yard to a north as a significant source of noise.
7. Separately, PPG advises that costs awards cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission². In this regard, the cost of the building remaining vacant is not eligible for an award of costs.
8. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Thomas Hatfield

INSPECTOR

² Paragraph: 032 Reference ID: 16-032-20140306