
Costs Decision

Inquiry held on 22-24 May and 7 June 2019

Site visit made on 23 May 2019

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 12 July 2019

Costs application in relation to Appeal Ref: APP/V4630/C/18/3197762

Land at 86 Lichfield Road, Shelfield, Walsall WS4 1PY

- The application is made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Paul Merrick for a full award of costs against Walsall Metropolitan Borough Council.
 - The inquiry was in connection with an appeal against an enforcement notice alleging the 'sale and fitting of motor vehicle tyres, including wheel balancing and alignment'.
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Decision

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

The submissions for Mr Merrick

2. The costs application and the Appellant's final comments, submitted after the Council's response to the application, were submitted in writing and are Inquiry Documents 31 and 33. No additional points were made orally.

The response by Walsall Metropolitan Borough Council

3. The Council's response to the application for costs was made in writing and is Inquiry Document 32. No additional points were made orally.

Reasons

4. 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.
5. The alleged breach of planning control relates to the use of the building on the land and does not relate to the building. The Appellant has pursued matters relating to the construction of the building in support of his legal grounds of appeal. That was his choice and the Council cannot be criticised for resisting those grounds of appeal. The Council has provided sufficient evidence to substantiate the reasons for issue of the enforcement notice, which were solely related to the impact of the use of the land on the amenities of neighbouring residents, which is partly a subjective matter. The Council has not acted unreasonably and the Appellant has not therefore incurred unnecessary expense.

John Braithwaite

Inspector