
Costs Decision

Site visit made on 17 June 2019

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th July 2019

Costs application in relation to Appeal Ref: APP/E0915/W/19/3220146 11 The Old Brewery, Craw Hall, Brampton, Cumbria, CA8 1TR

- 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 Douglas Bowman for a full award of costs against Carlisle City Council.
 - The appeal was against the refusal of planning permission for change of use of former gym to warehouse/retail shop.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, in either a substantive or procedural way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant seeks a full award of costs on the basis that the Council's consideration of the application did not follow well-established case law, and is based on vague, generalised assertions about the impact of the proposals which are unsupported by an objective analysis. Further, the Council has not determined similar applications in a consistent manner.
4. The case for costs made on behalf of the appellant accepts that the Council did consider case law, specifically *Mansell v Tonbridge & Malling BC* [2016] EWHC 2832 (Admin) in the context of establishing a fallback position. In reporting the application to Committee, the findings in that Judgement were clearly explained. The appellant's case is really that the Council then made assertions to draw a distinction between a retail use and the fallback position of a Class B use.
5. Though my findings differed in some respects to the Council's assessment of the proposal, I accept that the nature of parking associated with the two use classes would differ and it is a matter of planning judgment as to the harm that would cause. The Council's case is well reasoned with reference to statutory consultees, third party representations and the Council's own on site observations. It provides sufficient clarity to substantiate the concerns that were considered unacceptable in this case. Although I do not share those concerns, I do not find the Council acted unreasonably.

6. Further, although I have sympathy with the appellant regarding the perceived inconsistency in respect of the determination of the earlier application for a gym use, I have very little substantive evidence before me regarding this. In particular, I have no evidence whether the parking standards in the Cumbria Design Guide (2017) were relevant, or applied at that time. I cannot therefore find that the Council have acted unreasonably in this regard.
7. Having considered all the grounds for costs, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is not justified.

R. Jones

INSPECTOR