



Costs Decision

Site visit made on 4 June 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2019

Costs application in relation to Appeal Ref: APP/R4408/19/3224595 14 High Street, Hoyland, Barnsley S74 9AB

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Adem Aydemir for a full award of costs against Barnsley Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for change of use from cafe (A3) to hot food takeaway (A5).
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Decision

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

Reasons

2. 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 expense in the appeal process.
3. The application essentially relies on the fact that the Council Planning Officer recommended that planning permission be granted for the proposal, but the Council Members took a different course of action. The application centres on the applicant's claim that the Council (a) made their decision contrary to their planning policies and advice, and (b) did not provide sufficient justification for refusal, on grounds of highway safety.
4. PPG indicates that local planning authorities will be at risk of an award being made against them if they act contrary to policy or fail to produce evidence to substantiate each reason for refusal.
5. It is appreciated that the outcome of the application will have been a disappointment to the applicants. Despite the application being recommended for approval by the Council's Officers, Council Members took a different view and the application was refused. Council Members are not, however, duty bound to follow the advice of the Council Officers, and are entitled to come to a decision against the officer's recommendation.
6. Regarding matter (a), planning policy and guidance requires development to provide safe highway access. The reason for refusal clearly sets out the Council's concern in respect of highway safety. Accordingly, I find that the Council did not act manifestly contrary to policy.

7. With regard to matter (b), in this case the decision is one which is a matter of judgement. Accordingly, Council Members were entitled to reach a different decision compared to that recommended by the Planning Officer, given their concern about the potential impact of unauthorised on-street parking on highway safety, close to the junction of High Street and West Street, at an entrance to the busy road 'loop' around Hoyland town centre. Moreover, the reason for refusal clearly stated the Council's concern in respect of highway safety. Therefore, whilst it will be evident from my decision that I do not agree with the Council's conclusions about the impact of the proposal, I find that the Council provided a sufficient justification for their decision.
8. To conclude, I find as follows in respect of the above matters: (a) the Council did not act manifestly contrary to policy; (b) the Council provided sufficient justification for their decision.
9. As a result it follows that I cannot agree that the Council has acted unreasonably in this case.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the application for costs fails.

William Cooper

INSPECTOR