



Costs Decision

Site visit made on 4 September 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 24th September 2019

Costs application in relation to Appeal Ref: APP/P4415/W/19/3230361 10c Dale Road, Rawmarsh, Rotherham, South Yorkshire S62 5AB

- 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 Hooman Raki for a full award of costs against Rotherham Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for change of use to micro pub (Use Class A4) and erection of smoking shelter.
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Decision

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

Reasons

2. Planning Policy Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance gives examples at paragraph 049 of the types of behaviour which may give rise to a substantive award of costs against a local planning authority. The appellant's application for an award of costs relies largely on the Council failing to produce evidence to substantiate the reason for refusal on appeal and that vague, generalised or inaccurate assertions about the proposal's impact were unsupported by any objective analysis. This, the appellant argues, amounts to unreasonable behaviour and has resulted in the unnecessary expense of commissioning a noise report and the running of the appeals.
4. In this case I have carefully noted the recommendation of the Council's officers to the Planning Regulatory Board. Whilst the Council reached a different conclusion, and one with which I agree for the reasons I have set out in my decision, I do not agree that the advice of their officers was ignored. Nor do I consider that the Council failed to substantiate their case with evidence to justify the decision or have relied upon unsupported or inaccurate assertions.
5. The reason for refusal is clearly set out in the Council's decision notice. The application was made to retain the use of the building as a micro pub. Therefore, the nature and implications of the issues of the use in question, particularly with regard to noise and disturbance, were already being felt by occupiers of adjacent properties. Some of these residents addressed the Planning Regulatory Board with their concerns and objections, and I understand that noise complaints have also been lodged with the Council's

Environmental Health team during the micro pub's period of operation. I have no reason to doubt the veracity of the comments made in these respects.

6. The Council acknowledge that the recommendation was finely balanced and the revisions that the appellant made during the course of the application were noted. However, the Council Members were not satisfied that those revisions, or the use of the suggested conditions would be sufficient to address the concerns that had been expressed. For the reasons I have set out in my decision on the planning merits of the proposal, I agree. It follows that I am satisfied that the Council has shown that it was able to substantiate its reason for refusal.
7. For these reasons I cannot agree that the Council has acted unreasonably in this case. As such, there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Graeme Robbie

INSPECTOR