



Costs Decision

Site visit made on 7 January 2020

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2020

Costs application in relation to Appeal Ref: APP/N4205/W/19/3237480 444a Darwen Road, Bromley Cross, Bolton BL7 9HZ

- 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 Miss Leah Kellett of Estilo for a full award of costs against Bolton Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the change of use from a salon to a dog creche/training unit.
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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 and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples include: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failures to produce evidence to substantiate each reason for refusal on appeal; and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant submits that the Council has acted unreasonably as the planning application was recommended for approval by Officers, only for it to be referred to Planning Committee and subsequently refused at the Committee Meeting by Members of the Council. The appeal scheme is considered by the applicant to be a wholly reasonable and appropriate commercial use within a terrace of established commercial properties. There was a failure to take on-board professional advice from Officers, including those from Environmental Health and Highways. Additionally, Members of the Council were influenced by local objections.
5. In this case I have noted the recommendation of the Council's Officer. However, Council Members, in making their decision, do not have to accept the recommendations of the Officer. I find that in this instance, the decision is one of a matter of judgement and the Council Members in this case were entitled not to accept the professional advice of Officers as long as a case could be made by them for the contrary view. The Council's reason for refusal set out in

the decision notice is complete, specific and relevant to the application. It also clearly states the relevant policy of the Council's Core Strategy Development Plan Document 2011. I consider that the wording of the reason for refusal does not represent unreasonable behaviour.

6. The Council further supported their reason for refusal with a full statement of case. The statement expanded on the reason for refusal describing the reason why the Council considered the proposal would conflict with the living conditions of existing occupiers. It will be seen from my decision that I agree with the Council's refusal. I find that the decision was a matter of judgement based on the evidence before the Council and they took into account the development plan. I am satisfied that the Council adequately substantiated its reason for refusal. In this case the appeal could not therefore have been avoided.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated. As such, an award of costs is not justified.

W Johnson

INSPECTOR