



Costs Decision

Site visit made on 14 January 2020

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 May 2020

Costs application in relation to Appeal Ref: APP/J3720/W/19/3234579 Gaydon Service Station, Banbury Road, Gaydon CV35 0HA

- 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 Euro Garages Limited for a full award of costs against Stratford on Avon District Council.
 - The appeal was against the refusal of planning permission for a proposed shop extension at side and replacement storage unit at rear (retrospective) and reconfiguration of parking area.
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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 or wasted expense in the appeal process.
3. The applicant's application for costs is based on the alleged unreasonable behaviour of the Council and wasted expense, for the reasons considered below.
4. The applicant advises that planning application Ref:18/03008/FUL, to which the applicant's appeal relates to, was submitted following the refusal of a previous planning application¹ for a similar development to the appeal scheme. That application was refused for a single reason relating to visibility splays and was subsequently dismissed on appeal². Consequently, the applicant sought to provide the required visibility splays as part of the appeal scheme.
5. In its initial consultation response dated 26 October 2018, although the Highway Authority (HA) found the dimensions of the proposed visibility splays to be appropriate, it still objected to the application, on the grounds of insufficient information to assess its highways impact. Following the submission of further information from the applicant, the HA confirmed in its consultation response dated 3 January 2019, that it had no objection to the applicant's planning application.
6. Subsequently, on the basis of a detailed representation being made by a Ward Councillor, the HA undertook a further review of the applicant's planning application. This resulted in a further consultation response dated 20 February 2019, which identified a number of new issues that had not been identified in the

¹ 16/02749/FUL

² APP/J3720/W/17/3190869.

initial response. The HA also reversed its previous recommendation of 'no objection' to an 'objection'.

7. The consultation response dated the 20 February 2019, also set out the reasons why the HA had reviewed the applicant's planning application and sought to explain the issues. On the evidence provided in its Costs Rebuttal statement, I am satisfied that the Council engaged with the applicant's agent, which included updates on the processing of the planning application and the opportunity to address the additional matters identified by the HA. Although the applicant suggests that a meeting between the parties would have assisted in addressing any concerns, my attention has not been drawn to any specific request for a meeting being made from the applicant to the LPA and/or the HA.
8. In light of this and the above circumstances, I do not think it was unreasonable of the HA to consider the additional information and review the applicant's planning application during the application process, including changing its recommendation to the Council.
9. The applicant has also drawn my attention to the HAs final consultation response dated 8 May 2019. Initially, amongst other things this states that in respect of the development the proposed trip generation is robust, as the identified rates will be higher than the actual use and therefore will not maintain an objection on this matter. Despite this, the conclusion to the HAs response goes on to suggest a requirement to identify suitable trip generation, and that to ascertain the impact of the development in terms of trip generation uplift a transport statement should be submitted. Most notably, the HA maintained an overall objection to the applicant's planning application.
10. Furthermore, the aforementioned consultation response was a recommendation to the Council. Therefore, ultimately it was for the Council to decide on the adequacy of the applicant's trip generation information. Consequently, and despite having found the appeal in favour of the applicant, the decision of the Council to pursue a reason for refusal based on the applicant's trip generation information is a matter of planning judgement.
11. Given all of the foregoing, I find that the Council did not act unreasonably in this case. Accordingly, it is not necessary to consider the question of unnecessary or wasted expense. I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated.

M Aqbal

INSPECTOR