

Costs Decision

Site visit made on 16 December 2020

by R Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2020

Costs application in relation to Appeal Ref: APP/J2373/W/20/3258231 40 Abingdon Street, Blackpool FY1 1DA

- 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 Cashino Gaming Ltd for a full award of costs against Blackpool Borough Council.
 - The appeal was against the refusal of planning permission for the proposed development originally described as full planning permission for the change of use from a betting shop (*sui generis*) to an adult gaming centre (*sui generis*).
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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. The PPG indicates that local planning authorities are at risk of an award of costs if they behave unreasonably by delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. It is put to me that the Council did not follow established case law, did not determine similar cases in a consistent manner, prevented or delayed development that should have been permitted and failed to produce evidence to substantiate the reason for refusal.
5. It is clear to me why the Council's Planning Committee decided to defer the determination of the application having resolved to refuse the application contrary to its officer's recommendation. With optional wording for the reasons for refusal presented to the subsequent committee, I do not consider it unreasonable for such a short delay to occur for this additional information to be prepared and a final decision made. In any case, with such a short duration, I can not accept that this has led to wasted expense at the appeal.
6. A Planning Committee decision which goes against officer advice is not a reason to give an award of costs in itself, as the Committee were entitled to come to their own conclusions on the merits of the proposal. In this regard it is not unreasonable for the Committee to exercise planning judgement on matters such as character, taking into account the particular circumstances of the case.

7. Whilst consideration was given at the committee to the draft local plan, its decision was based on an assessment against Policy SR6 of the Blackpool Local Plan (2006). The Council's reasoning was clear and not generalised, relating specifically to the appeal site and the cumulative effects from being adjacent to a similar adult gaming centre.
8. Although the Council has not responded to all of the applicant's points, it did seek to substantiate its position regarding the application of its policies and assessment of effects. Given the particular characteristics of the appeal site, the adjacent unit and Abingdon Street as a whole, other schemes were not so similar that it was unreasonable for the Council to determine the application on its own merits.
9. Consequently, irrespective of the outcome of the appeal, I cannot find that the Council behaved unreasonably, relative to the main issue in offering a different view to my own, given the planning judgement involved.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
11. Accordingly, I determine that the costs application should fail, and no award is made.

Robert Walker

INSPECTOR