



Costs Decision

Site visit made on 24 November 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2020

Costs application in relation to Appeal Ref: APP/B0230/W/20/3256275 Ground floor, 10-12 Chapel Street, Luton LU1 2SE

- 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 Kent Leasing Ltd for a full award of costs against Luton Council.
 - The appeal was against the refusal of planning permission for a change of use from betting office (sui generis) to amusement centre (adult gaming centre) (sui generis).
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

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 sets out the examples of unreasonable behaviour by local planning authorities which includes preventing or delaying development which should clearly be permitted and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The appellant contends that the Council has acted unreasonably by preventing a development which should have been permitted, failure to produce evidence to support the alleged harm to the town centre and taking a prejudicial view of the proposed use.
5. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other material considerations, the development proposed should reasonably have been permitted.
6. The Council's appeal case fell a long way short of substantiating its claim that the development would be harmful to the area's vitality and viability and that there would be any conflict with the development plan or national policy. The refusal of planning permission, in the absence of any justifiable evidence and by advancing vague and generalised assertions about the proposal's impact amounted to unreasonable behaviour and resulted in the applicant incurring unnecessary expense in making this appeal.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Luton Council shall pay to Kent Leasing Ltd, the costs of the appeal proceedings described in the heading of this decision such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Luton Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

B Thandi

INSPECTOR