
Costs Decision

Site visit made on 12 January 2021

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2021

Costs application in relation to Appeal Ref: APP/W4223/W/20/3258821 10 Rochdale Road, Royton OL2 6QJ

- 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 Mohammed Shahed Alam (A3S Investments Ltd) for a full award of costs against Oldham Council.
 - The appeal was against the refusal of planning permission for change of use from Class A3 (restaurant and cafe) to Class A3 (restaurant and cafe) and Class A5 (hot food takeaway).
-

Decision

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

Reasons

2. The 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 causes the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG establishes that unreasonable behaviour can include vague, generalised or inaccurate assertions about a proposal's impact which are not supported by any objective analysis.
3. The application is seeking to recover the full costs incurred in the appeal process on substantive grounds. The applicant considers that the Council acted unreasonably as it had no evidence to support/rationalise its reasons for refusing the original application resulting in the appellant incurring unnecessary expense in undertaking the appeal process.
4. The planning decision is one which is a matter of judgement. As can be seen from my appeal decision I agree with the arguments advanced by the applicant in respect of highway safety. However, I do not consider the Council's arguments to be inherently untenable or unreasonable. In my judgement the Council have made an adequate assessment of the proposed development based on experience and knowledge of the site.
5. In this case I do not agree with their conclusions, however, I am satisfied that the Council has shown that it was able to support its reasons for refusal; their reasons and assessment are clear and identify harm. Consequently, I cannot agree that the Council has acted unreasonably in this case and do not consider that the applicant incurred unnecessary or wasted expense in the appeal process.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated in this case and the application for costs is refused.

Diane Cragg

INSPECTOR