



Costs Decision

Site visit made on 26 January 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2021

Costs application in relation to Appeal Ref: APP/W2465/W/20/3260076 33-39 Gwendolen Road, Leicester LE5 5FL

- 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 M Materia for a full award of costs against Leicester City Council.
 - The appeal was against the refusal of planning permission for change of use of buildings and land from Use Class B8 (Storage or Distribution) to a Builders' Merchants.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) indicates 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. Examples of unreasonable behaviour by Local Planning Authorities are set out in Paragraph 049 of the PPG.
4. The applicant states that a previous approval was given for 33-37 Gwendolen Road for the same use, and the only change is that a trade counter would now be located at No 39. The applicant states that the Council's case is based on the assumption that the use has already commenced, which the applicant disagrees with. The applicant alleges that the Council have reached their decision without producing any evidence to back up their reason and the Noise Assessment supplied with the application was not objected to by the Council's Noise team.
5. The Council state that the decision was based on the site visit as part of the application and their observations at that time, that the use had already commenced.
6. The Council's reason for refusal set out in the Decision Notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the development plan that the proposal would conflict with. These reasons were adequately substantiated in the officer report, which clearly stated that the application was harmful to the living conditions of local residents. The Council felt that the changes to the approved scheme gave rise to enough additional harm to refuse the application in this instance. I am satisfied that consideration was given to the approval and site history when the decision was made.

7. Whilst I have not agreed with the Council and their interpretation of the scheme, the Council were not unreasonable in coming to that decision and there is no evidence to suggest that they have unreasonably prevented or delayed the development.
8. I therefore conclude for the reasons set out above, unreasonable behaviour during the appeal process has not been demonstrated. For this reason, an award for costs is therefore not justified.

Paul Cooper

INSPECTOR