
Costs Decision

Site visit made on 13 October 2021

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th November 2021

Costs application in relation to Appeal Ref: APP/V1260/W/21/3269322 Compton Business Park, Unit 12, Thrush Road, Poole BH12 4FJ

- 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 AK Academy of Dancing for a partial award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for change of use of Unit 12 for use as Dance School (temp consent 5 years).
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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 application for a partial award of costs is based on the fact that a previous application was refused and, despite the proposal remaining the same, an additional reason for refusal was included on the decision that led to the appeal. The applicant contends that this amounts to inconsistency in decision-making, and has caused unnecessary expense in challenging this additional reason for refusal.
4. The PPG indicates that local planning authorities are at risk of an award of costs against them if they do not determine similar cases in a consistent manner. In this case, the proposal was for the same use of the same building as the previous refusal. In that respect it was, clearly, a similar proposal. However, one of the key issues in determining whether the proposed use complied with development plan policy was whether other suitable buildings were available outside of existing employment areas. The evidence indicates that, at the time of the first application, the applicant provided sufficient information to demonstrate that no alternative sites were suitable and available to accommodate the proposed use.
5. Nevertheless, time had passed between the first decision and the second application. It was entirely possible that other buildings could have become available in the intervening period. It was not, therefore, unreasonable for the Council to require an up-to-date appraisal of alternative sites to inform its decision.

6. As part of their appeal submission, the applicant provided updated evidence relating to the availability of commercial buildings in the area in June 2021. This more recent evidence was persuasive in demonstrating that there were still no suitable and available alternative buildings for the proposed use. If up-to-date information had been made available to the Council at the time it made its decision, it is possible that the additional reason for refusal would not have been included. In its absence, it was not unreasonable, or inconsistent, for the Council to have refused the application.
7. The PPG advises that, where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Nick Davies

INSPECTOR