
Costs Decision

Site visit made on 28 January 2022

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2022

Costs application in relation to Appeal Ref: APP/J0540/W/21/3280958 35 Westgate, Peterborough PE1 1PZ

- 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 Billal, Gujjar Investments Ltd for a full award of costs against Peterborough City Council.
 - The appeal was against the refusal of planning permission for the subdivision of ground floor retail shop and associated alterations to form six Class E(a) retail units and taxi cab office (sui generis), change of use of second floor to restaurant (Class E(b)) and associated external alterations.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only 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. In this case the appellant argues that the Council acted unreasonably by refusing permission contrary to the recommendation of its officers and failed to provide adequate evidence to substantiate its reason for refusal. The Council therefore caused the appellant unnecessary expense in having to pursue an appeal.
4. However, the Council is not bound to follow the advice of its officers nor those of specialist consultees provided there are substantive grounds for its case. Whilst the Police and Architectural Liaison Officer did not object to the proposal it was confirmed that the area has seen incidents of robbery, violence and shoplifting – 16 over a two-year period. The taxi cab office would result in some customers being in the area late at night and this could exacerbate the number of existing incidents. Prior to the use commencing, this cannot be quantified.
5. In this instance, whilst the Council did not put forward further detailed evidence, its concerns had substance. Since the future level of anti-social behaviour in the area with the taxi cab office is unknown and its acceptability is a subjective matter, it was not unreasonable to pursue the issue at appeal. The fact that a temporary permission has been granted to enable a review at the end of a two year period, and that the appellant accepts this condition, illustrates the validity of the concern.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

David Reed

INSPECTOR