The Planning Inspectorate

Costs Decision

by S A Hanson BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 March 2022

Costs application in relation to Appeal Ref: APP/J1860/C/21/3271777
333 Worcester Road, Malvern, WR14 1AN

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by Mr Jaz Sandhar (i Shine Express Ltd) for a full award of costs against Malvern Hills District Council.
- The appeal was against an enforcement notice alleging a breach of condition to planning permission granted for single and double car wash canopies.

Decision

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

Reasons

2. Paragraph 030 of the Appeals section of the national 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. Unreasonable behaviour in this context may be procedural, relating to the appeal process, or substantive, relating to issues arising from the merits of the appeal. The application for costs in this case relates to the appeal process.

3. The applicant considers that the council made an error on the original enforcement notice which resulted in the subsequent withdrawal of the notice by the council. The issuing of the second enforcement notice resulted in further consultancy fees to produce a revised appeal statement. This is considered unreasonable behaviour which has resulted in unnecessary and wasted expense for the applicant.

4. The Council accepts that additional administration costs and minor amendments to their appeal statement will have occurred in submitting a second appeal. However, it considers that the same main areas of disagreement exist as with the first and that the wider issues remain the same. As such it queries whether a substantially revised appeal statement would have been needed in relation to the latest appeal.

5. Section 172(1) of The Town and Country Planning Act 1990 as amended (the 1990 Act) states that a local planning authority may issue a notice where it appears to them that there has been a breach of planning control; and that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

6. In issuing the notice the Council has relied upon the provisions of s171B(4)(b) of the 1990 Act. In this respect I consider that the matters covered in the appeal submissions are not so dissimilar to the previous appeal. Nevertheless, I am only concerned with the immediate appeal for the application for costs. The costs regime is intended to encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, and to encourage local planning authorities to properly exercise their development management responsibilities. There is nothing that I can see in the Council's exercise of its responsibilities and its conduct of this appeal that I consider amount to unreasonable conduct.

7. Therefore, for the reasons above, I consider that unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, an award of costs is not justified.

S A Hanson

INSPECTOR