



Costs Decision

Site visit made on 7 July 2022

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 19 July 2022

Costs application in relation to Appeal Ref: APP/R0660/X/22/3293465 Lyme Breeze Restaurant, Wood Lane East, Adlington SK10 4PH

- 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 Wilshaws of Bexton Limited for a full award of costs against Cheshire East Council.
 - The appeal was against the refusal of a certificate of lawful use or development for the ancillary use of 'Lyme Breeze Restaurant' (Class E) for functions and events.
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Decision

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

Reasons

2. The 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. The appellant claims that the Council has behaved unreasonably, citing unnecessary delays in determining the application, failing to engage proactively with the appellant and carrying out a site visit outside of normal working hours. It is also suggested that the Council had reached an opinion to refuse the application prior to the site visit. The Council refutes the appellant's claim and has provided a timeline detailing email correspondence, which included requests for information. This is corroborated by the appellant's own evidence.
3. I appreciate that the Council's delay in allocating and determining the application was frustrating for the appellant. However, this in itself is not sufficient to justify a finding of unreasonable behaviour. The Council did contact the applicant prior to issuing the decision seeking further information. There is little evidence that the Council did not engage with the appellant. While carrying out a site visit at the weekend could be considered unusual, it is not unreasonable, especially given the nature of the premises.
4. It is correct that the Council could have researched information online, which it did to a certain extent. Nonetheless, the onus of proof lies with the applicant as I explain in my decision. It may be good practice to notify the applicant in advance of a site visit but it is not apparent that a site meeting with a senior staff member would have changed the Council's view. The application should have included information about the entirety of the operation at the outset. There is no evidence that the Council relied unduly on the site visit findings in reaching its decision since it refers to – "the site visit, planning submission and

resources available to the general public” in its decision. The applicant’s supporting evidence was considered in the Officer’s delegated report.

5. I, therefore, find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Debbie Moore

Inspector