



Costs Decision

Site visit made on 12 July 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2022

Costs application in relation to Appeal Ref: APP/W5780/W/21/3282176 35 New North Road, Hainault, Ilford IG6 2UE

- 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 Singh for a full award of costs against the Council of the London Borough of Redbridge.
 - The appeal was against the refusal a refusal to grant approval required under Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for the change of use from ground floor betting shop to one residential unit.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) 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 appellant submits that the Council acted unreasonably in refusing the prior approval application upon policies contained within their Adopted Local Plan. They contend that this is contrary to the established procedure of assessing the proposal against the relevant provisions of the GPDO.
4. In support of the application, reference is made to an appeal¹ in Lewisham (the Lewisham appeal) where the Inspector stated that a prior approval application/appeal should not be determined, expressly or otherwise, on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004, or as though the development plan must be applied. The Inspector set out that this is because the principle of development is established through the grant of permission by the relevant provisions of the GPDO.
5. However, in the Lewisham Appeal Decision, the Inspector accepted that policies of the development plan are capable of being material considerations. In respect of the appeal before me, the appellant also accepts that the planning policies referred to by the Council are capable of acting as material considerations in the context of this proposal. On that basis, it is not

¹ Appeal Ref: APP/C5690/W/20/3252739

- unreasonable for the Council to refer to development plan policy in its consideration of the proposal or in its reasons for refusal.
6. On the matter of the Lewisham appeal, I have not been provided with full details of the evidence before the Inspector. However, based on the Appeal and Costs Decisions, an important consideration was the Council's inconsistent approach as to whether the site was in a key shopping area, and the consideration of the provisions of the GPDO and development plan policy based on that inconsistent approach. The Inspector went on to conclude that the Council had not shown how that proposal failed to comply with specific requirements of the GPDO.
 7. The Inspector's consideration of the Lewisham appeal does not therefore represent the circumstances of the appeal before me, where the Council has been clear and consistent in considering this appeal site as being in a key shopping area. The Council has also been clear in its consideration of the conditions of paragraph M.2 of Class M that applied at the time of making its decision.
 8. Drawing the above together, the policies of the development plan are capable of being a material consideration in this appeal. The Council has therefore not behaved unreasonably in referring to them. Reference has been made to the policies within the context of the Council's consideration of the prior approval conditions, but this does not represent a determination on the basis of s38(6) of the Act.
 9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

David Cross

INSPECTOR