



Costs Decision

Site visit made on 4 July 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2022

Costs application in relation to Appeal Ref: APP/V5570/W/22/3294654 309 - 311 Caledonian Road, Islington, London N1 1DT

- 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 Betting Shop Operations Limited for a full award of costs against the Council of the London Borough of Islington.
 - The appeal was against a failure to give notice within the prescribed period of a decision on an application for planning permission for the change of use from Class E to Sui Generis (Betting Shop).
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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, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary and wasted expense in the appeal process.
3. The applicant's claim is that the Council failed to cooperate and provide a decision in a timely manner on a scheme that should have been approved. The PPG is clear that costs cannot be claimed for the period during the determination of the planning application although behaviour and actions at the time of the planning application can be taken into account in my consideration of whether or not costs should be awarded.
4. A timeline of correspondence between the applicant and the Council has been provided. This indicates to me that, within the statutory consultation period of the application, the Council informed the applicant of concerns with the proposed development and that the policy team had recommended the application be refused. The reasons were clearly set out and the applicant was advised to withdraw the application.
5. The applicant chose not to, but rather they advised the Council to proceed with the refusal. From this point on, there were some delays with the Council receiving a consultee response. Nevertheless, the applicant was already well aware of the Council's concerns with the proposed development and its intention to issue a decision notice. Instead of agreeing to an extension of time, the applicant chose to utilise their right to appeal against the non-

determination of the application. The time between the original determination date of the planning application and the submission of the appeal was not considerable. Taking all this into consideration, I find that the Council did not act unreasonably.

6. For an award of costs to succeed, had I found that the Council acted unreasonably, such behaviour must also have resulted in unnecessary or wasted expense on the part of the applicant. During the course of the application, the Council substantiated its position on the proposed development, which was supported by local and national policies, and communicated this to the applicant. The applicant was therefore equipped with information to help inform their statement of case. The Council's reasoning was carried through to the appeal, and clearly outlined within its statement of case. Even though I have allowed the appeal, it is clear to me that there were fundamental disagreements between the main parties relating to the merits of the proposal. As such, the appeal process was unavoidable.
7. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. A claim for costs is not therefore justified and accordingly it is refused.

H Ellison

INSPECTOR