



Costs Decision

Site visit made on 15 August 2022

by Simon Hand MA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 August 2022

**Costs applications in relation to Appeal Ref: APP/A5270/C/21/3266918
Premises known as Sippar, 44B Bideford Avenue, Perivale, Ealing, UB6 7PP**

- The applications are made under the Town and Country Planning Act 1990, sections 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The first application is made by Mr Waleed Alseadi for a full award of costs against Ealing Council.
 - The second application is made by Ealing Council for a full award of costs against Mr Waleed Alseadi.
 - The site visit was in connection with an appeal against an enforcement notice alleging the material change of use of the premises to a mixed use café and shisha lounge.
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Decisions

1. The application for an award of costs by the Appellant is refused.
2. The application for an award of costs by the Council is allowed in the terms set out below.

Preliminary Matters

3. At the site visit I was informed the business had changed hands and the new owner was Mr Waleed Alseadi. Subsequently a consent to proceed letter from the original appellant, Mr Haidar Abu-Nayla, has been received and the appeal and this costs claim is proceeding in Mr Alseadi's name.

The Costs claim made by the Appellant

4. The appellant's costs claim is based on the assumption that planning permission was granted in 2016 for an extension. If that didn't grant planning permission for the use then waiting 6 years is unacceptable.
5. However, as I noted in the appeal decision, that planning permission was only for the extension itself. The permission made it clear under the 'informatives' that it did not extend to the unlawful use going on at the site and a separate application should be made to regularise the position. Just such an application had been made before the application for the extension but was withdrawn and no further attempts made to regularise the situation. The previous appellant was also told in 2020 that planning permission was needed to the shisha lounge and his predecessor was prosecuted for carrying out such a use. The appellant cannot therefore claim ignorance of the position.
6. The appellant also mentions that he should get a free go for an LDC as he has already paid the fee for the 2016 application and for the enforcement appeal. However, no fee was paid for the enforcement appeal and the 2016 fee was for

that application and was nothing to do with the use. In any event, as is clear from the decision letter, an LDC would have no chance of success as the evidence suggests the use began only in 2014.

7. Finally the appellant asks for proof that he needs planning permission for the Shisha lounge, but no proof is needed. As the use is materially different from the lawful industrial use then planning permission is required.
8. No unreasonable behaviour by the Council has been identified and an award of costs is not justified.

The Costs claim by the Council.

9. The Council argue the ground (b) the hidden (c) and the (d) had no chance of success, while no argument at all was made for ground (f) or (g).
10. The appellant has not responded to the costs claim, but it is difficult to think what he might say. I agree, the ground (b) was hopeless as there is no dispute there is a shisha lounge and café at the premises and no planning permission exists for it so the ground (c) was equally hopeless. The ground (d) was made on the mistaken assumption that the time period was 4 years when it is in fact 10 and there is no dispute the use did not begin until 2014. So that ground could not succeed. No arguments were made for the ground (f) or (g) and I discuss these in the decision letter. It is hard to see how either ground could have succeeded in any event.
11. It is clear to me the appeal was entirely without hope of success. I accept the appellant is unrepresented, but he is still under an obligation not to waste the Council's time in such an egregious manner. I therefore conclude that the appellant had no reasonable prospect of success with the appeal and I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has been demonstrated, and that a full award of costs is justified

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Walled Alseadi shall pay to The London Borough of Ealing, the costs of the appeal proceedings described in the heading of this decision such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Mr Alseadi, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Simon Hand

Inspector