



Costs Decision

Site visit made on 15 August 2022

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 31 October 2022

Costs application in relation to Appeal Ref: APP/E5900/W/21/3272226 Site at South East Junction of Thames Circle and Westferry Road, Thames Circle, London E14 3RX

- 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 REEF London Ltd for a full award of costs against the Council of the London Borough of Tower Hamlets.
 - The appeal was against the refusal of planning permission for the retrospective application for siting of containers and change of use of car park to commercial kitchen, container farm, business to business storage lockers.
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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. Unreasonable behaviour can be considered as either substantive or procedural in nature.
3. The applicant considers that the Council has been substantively unreasonable in terms of assessing the land use classification of the container kitchen and the visual harm of the development. They consider that the Council's decision was based on unfounded reasons which resulted in unnecessary expense in submitting the appeal.
4. The Council has explained why it had changed its position on the land use classification for commercial kitchens from previous examples elsewhere in the borough. While the Council did not provide the legal guidance on which it says it has based this change of view, I have seen no clear evidence that the applicant directly requested it. Moreover, regardless of the use, the Council officer's report gives consideration to the amount of employment generated. While I have reached a different conclusion, it is clear that permission would have been refused, irrespective of the land-use classification. The appeal would not have been avoided and so wasted expense has not occurred in the appeal process.
5. With respect to visual impact, within the Council's officer report the screening provided by the boundary wall was duly acknowledged as is the reason for the harm found. The development does extend nominally above the wall and is

partly visible. It is not therefore unreasonable for the Council to consider the visual impact of this on the surrounding area and make a planning judgement on its harm.

6. In conclusion, I do not consider that the Council has failed to properly evaluate the development or behaved unreasonably in the process of determining it. Whilst I have arrived at an alternative judgement about the impact of the development, I nonetheless consider that the Council set out clearly its concerns and justified its decision accordingly. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

J Symmons

INSPECTOR