



Costs Decision

Site visit made on 15 November 2022

by C Megginson BA (Hons) DipTP MRTPI

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

Decision date: 16 December 2022

Costs application in relation to Appeal Ref: APP/W4705/W/22/3306518 Ground Floor and Basement Broadway House, 11 Bank Street, Bradford BD1 1HJ

- 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 Merkur Slots for a full award of costs against City of Bradford Metropolitan District Council.
 - The appeal was against the refusal of planning permission for the change of use of the Ground Floor and Basement from Class E to an Adult Gaming Centre (AGC) (Sui Generis).
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. Examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The appellant highlights a recent decision at Ivegate and states that this should have weighed heavily in the councils' assessment. As set out in the appeal decision, I am not convinced that the Ivegate case is directly comparable with the appeal scheme. It is clear that the Council determined both applications on their own merits and I therefore find no unreasonable behaviour in this regard.
5. Public health concerns and concerns relating to the appeal property frontage are clearly set out in the officer's report and decision notice. Whilst I have not agreed with the Council case regarding public health concerns, there is sufficient information before me to understand its case. Therefore, I am of the view that its case as a whole is not vague or generalised and does not use inaccurate assertions. The Council's lack of communication on these issues prior to the decision is understandably frustrating. Whilst regrettable, unreasonable behaviour on the part of the Council has not been demonstrated in this regard.

6. Whilst I understand the appellant's perspective, the Council's decision notice cites relevant policies of the development plan in line with section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended, together with reference to the National Planning Policy Framework. From the evidence before me the Council's assessment was based on a thorough assessment of the site, and the potential effect of the scheme in that context.
7. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary 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 therefore not justified.

C Megginson

INSPECTOR