



Costs Decision

Site visit made on 25 October 2022

by C. Rose BA (Hons) BTP MRTPI

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

Decision date: 21st December 2022

Costs application in relation to Appeal Ref: APP/N1160/W/22/3299743 116 - 118 New George Street and Ground Floor & First Floor 2 - 4 Market Avenue, Plymouth PL1 1RZ

- 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 UK Ltd for a full award of costs against Plymouth City Council.
 - The appeal was against the refusal of planning permission for change of use of 2-4 Market Avenue and 116-118 New George Street in Plymouth from a former Class E use (restaurant) to an adult gaming centre (Sui Generis).
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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. The applicant considers that the Council acted unreasonably by preventing or delaying development that should clearly have been permitted and for failing to provide evidence to support its decision.
3. Although the Council approved permission at the same premises for a new shopfront subject to a condition controlling window coverings and other features, they were entitled to refuse a subsequent planning application. The two applications are subject to different planning policies and material considerations. The approval of the permission for the shopfront does not mean that planning permission for the change of use should automatically be granted.
4. The applicant may disagree with the Council's assessment and decision. However, this does not mean that the Council acted unreasonably in refusing planning permission. In this instance, the Council's Officer Report details and substantiates the alleged harm and its Decision Notice sets out a reason for refusal based on conflict with the development plan. The Council's Officer Report explains why the Council refused planning permission despite the grant of other consents at the site.
5. Although I have found in the applicant's favour, it was not unreasonable for the Council to reach the view that it did. As such, I do not find that the Council acted unreasonably in refusing planning permission. In addition, I do not find

that the Council failed to produce evidence to support their decision to an extent that the applicant incurred unnecessary expense in pursuing the appeal. The appeal provided an opportunity for the applicant to test the position and explain their case. In my view the Council provided reasons for its concerns which justified its position.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

C Rose

INSPECTOR