



Costs Decision

Site visit made on 30 May 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2023

Costs application in relation to Appeal Ref: APP/W5780/W/22/3310682 Unit 1, 172-174 High Road, Ilford IG1 1LL

- 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 Chongie Entertainment Ltd for a full award of costs against the Council of the London Borough of Redbridge.
 - The appeal was against the refusal of planning permission for the change of use from former bank (Use Class E) to a sui generis adult gaming centre.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (the 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.
3. The PPG makes 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. The applicant considers that the Council provided no evidence to support their concerns regarding the noise effects of the proposal. I note that the Council received concerns from local residents and an elected representative. Along with this information, it also made an assessment based on the proposed 24 hour use of the unit and the nearby sensitive receptors.
5. The applicant provided a noise assessment during the course of the appeal which, along with other factors, led me to find contrary to the Council on this matter. However, this information was not before the Council when it made its decision. I find that, based on the evidence which was before it at the time of the decision, the Council's reason for refusal in respect of this matter was supported. Thus, there was no unreasonable behaviour in these terms.
6. The applicant also claims that the Council failed to take into consideration the neutral effect on the total number of retail uses in the town centre, as the appeal site was formerly used as a bank. I note the approach of the Council in application ref: 3320/22, which appears to be inconsistent with the approach taken for the appeal proposal. This may appear to be unreasonable behaviour on the Council's part.

7. However, Policy LP10 of the Redbridge Local Plan 2015-2030 (March 2018) makes clear that the primary retail function of primary shopping frontages should be supported by seeking a minimum 70% of ground floor units are used as A1 (now E(a)) retail uses. Although the proposal would not affect the status quo of retail uses given the existing use of the appeal unit, and this is undoubtedly a factor which also has to be taken into consideration, it nevertheless seems to me that a survey of the uses in the overall frontage is still required. The results of the survey, along with other factors, would then assist the overall assessment of the proposal and its effect on the town centre.
8. Linked to this matter, the Council admits the scope of the survey was incorrect which led to inaccurate assertions regarding the number of retail units in the town centre. This was subsequently amended during the course of the appeal, which resulted in the Council confirming that the minimum 70% of retail units within the town centre was met.
9. The Council's concerns nevertheless remained. However, as noted, various factors assist in the assessment on vitality and viability, with the relevant development plan policies also seeking to prevent over concentration of similar uses and ensuring proposals do not result in other adverse impacts, including harming the amenities of nearby occupiers.
10. The Council found that the proposed adult gaming centre, which does not fall within the more flexible provisions of Class E, would not contribute positively towards the vitality and viability of the town centre and would result in proliferation of similar uses which would in turn raise issues with amenity, amongst other things. Whilst it can be seen from my appeal decision that I have found otherwise, the evidence before me indicates that the Council fully substantiated its concerns.
11. Taking all the above into consideration, I conclude overall that it has not been demonstrated that the Council behaved unreasonably which resulted in unnecessary or wasted expense. The costs application should therefore fail and no award is made.

H Ellison
INSPECTOR