



Costs Decision

Site visit made on 3 May 2023

by Simon Hand MA

an Inspector appointed by the Secretary of State

Decision date: 06 July 2023

Costs application in relation to Appeal Ref: APP/U1620/W/22/3308030 11 Northgate Street, GLOUCESTER, GL1 2AN

- 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 BoyleSports (UK) Limited for a full award of costs against Gloucester City Council.
 - The appeal was against the refusal of planning permission for change of use from Class E to sui generis (betting office) with internal and external alterations.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. The reasons for refusal were limited to loss of vitality to the shopping centre and harm to the listed building and surrounding conservation area. The appellants argue that the Council have acted unreasonably as they did not substantiate those reasons. Furthermore, the Council had already granted advertisement and listed building consents for the proposal so they couldn't refuse planning permission on listed building grounds.
4. The Council respond that although officers recommended granting planning permission, the committee disagreed, as is their right, and although the Council did not provide a detailed appeal statement the reasons for the refusal were clear. They accept the listed building reason contradicts the grant of listed building consent, but the planning committee disagreed with that consent and the reason for refusal is based on sound policy arguments.
5. Turning first to the listed building issue. I do not know what went on at the committee meeting or what advice members were given, but it is patently absurd to refuse planning permission because of the impact on a listed building when listed building consent has been granted for exactly the same development and where the same impact had been considered acceptable. Along with the advertisement consent, which should also have considered the impact on the listed building and conservation area, much of the external works could have been carried out without the need for planning permission, which underlines the unreasonableness of the inconsistency.
6. I accept that the committee is not bound by the officer's recommendations, but they do need to take into account previous decisions made by their officers,

especially when they are dealing with the same development. If they are going to go against those decisions they need to have a well argued and convincing case. However, no explanation and no analysis of why the proposal was harmful was provided.

7. As to the vitality and viability argument, it is not sufficient to simply state there will be harm, but it has to be explained why, especially as in this case the property had been empty since 2017. Failure to support a reason for refusal with reasoning is unreasonable behaviour on its own, never mind when it is so obviously wrong.
8. It is clear to me that refusing the application for planning permission without good reason was unreasonable behaviour that led to the wasted costs of an appeal and I shall allow the costs application accordingly.

Costs Order

9. 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 Gloucester City Council shall pay to BoyleSports (UK) Ltd, 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.

The applicant is now invited to submit to Gloucester City Council, 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