



Costs Decision

Site visit made on 14 June 2022

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2023

Costs application in relation to Appeal Ref: APP/Y3425/W/21/3289776 Victoria Park House, Victoria Road Stafford ST16 2AF

- 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 Mr Vinesh Aggarwal of Enfield High Street (AGG12) Ltd for a full award of costs against Stafford Borough Council.
 - The appeal was against the refusal of planning permission for the conversion and change of use from offices (Class B1(a) to dwelling houses (Class C3).
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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 (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 applicant submits that the Council did not consider all of the evidence before them and did not suitably justify their decision. In this way the applicant considers that the Council acted unreasonably which led to the planning application being refused and unnecessary expense in defending it at appeal.
4. I note that the Council consider that as costs were awarded as part of quashing the original Inspector's decision that costs cannot be awarded at this stage. However, I understand that that award regarded the costs of the legal proceedings rather than the appeal process. I have therefore considered the application for costs.
5. The report by RP Acoustics provided further detail and more substantially described the separation of the noise origins. However, this was submitted as part of the planning appeal. It is clear the submissions made at the planning application stage were unable to categorically delineate between the sources of the relevant noises registered at the appeal site. I therefore find that the source of the noise was a matter of judgement.
6. I am satisfied that the Council suitably justified its concerns, regarding the level and source of the noise, within its submissions. This included detailing the conditions of the site, its surroundings, the nature of the development and highlighting issues which it considered would result in harm to living conditions. Therefore, whilst I found differently to the Council, to this extent they justified their decision making. Moreover, the Council is not bound by the consultation responses it receives. Therefore, whilst they did not agree with the

Environmental Health Officer's comments, I do not find that they acted unreasonably in doing so.

7. However, the Planning Officer Report does not make reference to the appeal decisions submitted by the applicant. I therefore cannot be certain that the Council fully appreciated these examples or were mindful of them during their decision-making process. However, the detail of the definition given by the Class¹ is somewhat broad, and neither local nor national policy provide a clearer definition, insofar as relevant to this Class. Consequently, and within reason, I find that it is a matter of judgement as to which uses can be described as "premises normally used for the purposes of any commercial or industrial undertaking". Therefore, even if the Council had clearly considered these examples, they would not necessarily have also found the train station to be a commercial premises.
8. Nevertheless, as the Council could not be certain of the source of the noise, even if they had found the train station to not be a commercial premises, the issue of living conditions would still have remained. Therefore, while the Council were unhelpful in this regard, the work undertaken by the applicant, involved in defending the appeal, was necessary irrespective of this behaviour and has not been a wasted expense.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Samuel Watson

INSPECTOR

¹ Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)