The Planning Inspectorate

Costs Decision

Site visit made on 12 September 2023

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2023

Costs application in relation to Appeal Ref: APP/H0520/X/23/3319777
Unit 11, Little America Industrial Estate, Moor Road, Great Staughton, St Neots PE19 5BJ

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
- The application is made by Little America Limited for an award of costs against Huntingdonshire District Council.
- The appeal was against the refusal of a certificate of lawful use or development for B2 (General Industrial) and B8 (Open Storage).

Decision

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

Reasons

2. The applicant has not advised whether the application is made on the basis of a partial or full award, and I have therefore considered it in both respects.

3. 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.

The case for the applicant:

4. The applicant's case is that, in refusing the application, the Council took into account a document which was not shared with them. And that they did so despite numerous requests for updates on the application.

5. They consider that document, which related to the declared date of occupation of the building for business rates purposes, was pivotal to the Council's decision. That that evidence had already been addressed, by others, in the associated enforcement notice appeal, before the application was determined.

6. They consider the absence of an opportunity to address this information, and other matters arising from the Council's handling of the evidence, meant they were unable to submit counter-evidence that would have demonstrated the use commenced in November 2011. As a result, that these actions led to the applicant expending unnecessary expense in the appeal process.

Consideration of the issues:

7. Paragraph: 006 Reference ID: 17c-006-20140306 of the PPG states that, if a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence. That advice does not appear to have been followed by the Council.

8. At appeal, the Council relied on documents available at the time the application was determined, including its officer report. Although mention is made of the business rates document, and it states it was appended to the officer report, the Council also raised other issues relating to the sufficiency of the evidence as a whole. Notably, they also distinguished between occupation of the land, and the actual use of the land occurring at times throughout the relevant period.

9. The Council's case was not dependent on the business rates evidence. Furthermore, in my appeal decision I found the evidence of the actual use and activity at the site to be more significant. I also considered the evidence as a whole did not sufficiently demonstrate the lawfulness of the use, and dismissed the appeal for reasons not associated with the business rates evidence.

10. The appellant has therefore not incurred wasted expense either in pursuing an appeal unnecessarily on account of the Council's omission, or in addressing a point which it concedes had already been made.

11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Peter White

INSPECTOR