



Costs Decision

Site visit made on 9 November 2023

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2023

Costs application in relation to Appeal Ref: APP/A2525/W/23/3316411 75 Church Street, Pinchbeck, Spalding, PE11 3YA

- 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 Nilesh Odera for a full award of costs against South Holland District Council.
 - The appeal was against the refusal of planning permission for “conversion of existing building to provide a local convenience store, to include; new front elevation design, shutters, signage, totem signage, condensing units, extension of opening hours and associated external area upgrades.”
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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 contends that as the Council’s reasons refusal were related to harm associated with the change of use of the appeal property, where, it is claimed, no change of use was involved or proposed, that this amounts to unreasonable behaviour.
4. The description of development provided on the planning application form included reference to the “conversion of existing building to provide a local convenience store”. The applicant clarified, within their evidence, that this reference related only to the physical works required to enable the conversion of the appeal property, as opposed to the conversion of the use. The Council considered the application on the basis that permission was also being sought for the use of the property.
5. I also note that the description of the proposal includes reference to an extension to the opening hours of the property which would only fall within the scope of an application that related to the use of the appeal property. In the circumstances, I do not find that the Council’s interpretation of the scope of the application was an unreasonable one.
6. I acknowledge that the matter of whether planning permission for a change of use of the appeal property would be required was discussed between the applicant and the Council prior to a planning application being made, and that the informal view provided by the Council was that as the appeal property was

last in use as Class E use, that no planning permission would be required for the property to operate as a convenience store. However, this was not subsequently formally established through an application for a Certificate of Lawful Use under Sections 191 or 192 of the Town and Country Planning Act 1990.

7. It is possible that clarification of the proposed development could have been sought by the Council and an amended and clearer description of the development agreed as part of the application process. However, the Council was not required to do so, and it is ultimately for the applicant to set out a clear description of the proposed development. Overall, the Council behaved reasonably in taking the description of development at face value and interpreting it as it did.
8. It therefore follows that in including matters relating to the principle of the change of use of the appeal property within its consideration of the planning application, and ultimately, its reasons for refusal, the Council did not act unreasonably. Furthermore, the Council also made reasonable efforts to subsequently substantiate these reasons for refusal at the appeal stage. The Council was entitled to take a different view to the Highway Authority on the matter of parking provision as the comments provided by them were made on the basis of a different interpretation of the description of the proposal.
9. Taking all of the above into account, I consider that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

C Harding

INSPECTOR