
Costs Decision

Site visit made on 22 February 2024

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2024

Costs application in relation to Appeal Ref: APP/G5750/C/22/3310747 37 Woodgrange Road, Forest Gate, London E7 8BA

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Shedzad Munir for a full award of costs against the London Borough of Newham.
 - The appeal was against an enforcement notice alleging without planning permission the material change of use to a hot food takeaway (*Sui Generis*).
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Decision

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

Reasons

2. 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. An application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. In summary, the applicant states that the Council has acted unreasonably in so far as the takeaway use is subservient to the principle use as a restaurant and therefore no material change of use has occurred. It is further stated that the Council did not undertake due diligence to establish the facts of the case before serving the Notice.
4. The Council has set out why they consider a material change of use has occurred and took into consideration the existing use of the premises, the layout, and the type of food offered. They have also taken into consideration an email from the appellant to the Council's licensing department which states that the business would be "*more a takeaway/delivery service.*"
5. Indeed, it will be seen from my decision, that I agree with the Council that on the balance of probability a material change of use has occurred. There has therefore been a breach of planning control. It follows I am satisfied that the Council has not acted unreasonably by serving this notice. Therefore, the applicant has not been put to any unnecessary or wasted expense with dealing with this appeal.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the applicant's claim for costs fails.

R Satheesan

INSPECTOR