



## Costs Decision

Site visit made on 11 June 2024

**by K Townend BSc MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 04 July 2024**

### **Costs application in relation to Appeal Ref: APP/D4635/W/23/3333840 36-37 Princess Street, Wolverhampton, WV1 1HD**

- 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 on behalf of BoyleSports (UK) Ltd for a full award of costs against Wolverhampton City Council.
- The appeal was against the refusal of planning permission for change of use from use class E to sui generis (betting office), external alterations and advertisement consent.

### **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. A full award of costs is sought by the applicant and the application has been made on a substantive basis. The applicant contends that the Council's appeal case has failed to substantiate the refusal reason and also that the Council submitted late evidence, in the form of the information from West Midlands Police. It is argued that refusal of planning amounted to unreasonable behaviour on the Council's behalf when regard is paid to paragraph 049 of the PPG because the refusal of permission delayed development which should clearly be permitted having regard to the development plan, national planning policies and other material considerations.
4. Although I ultimately agreed with the applicant in the main appeal, there were a number of objections to the proposal. Objectors included the Council's Public Health Officer and West Midlands Police who both referred to potential harmful effects on health and safety from gambling and referred to a connection between such changes of use and anti-social behaviour. Both consultees provided evidence to support their objections.
5. The evidence provided by the consultees, albeit challenged by the appellant, informed the advice they gave to the Council. Whilst the representations and objections made by various parties could have been subjected to greater scrutiny and analysis, the Council's approach does not amount to unreasonable behaviour.
6. Although the Council has provided additional information, in the form of the detailed call-out log from West Midlands Police, and this has resulted in some degree of unreasonable behaviour, the appellant has had an opportunity to

respond to this additional information through the final comments on the costs. Moreover, the addition of this information is not substantial new evidence and, therefore, does not justify an award of costs.

7. It was not unreasonable for Council planning officers to give serious consideration to the representations made to it and the evidence provided by the consultees, who have professional knowledge of betting establishments in Wolverhampton. The Council considered, partly on the basis of the objections to which they gave considerable weight, that the proposal would result in a proliferation of betting shops in a small area, not across the city centre as a whole. The Council considered that such proliferation would compromise the health, safety, and security of the immediate area.
8. The Council's concerns are clearly stated in its reason for refusal and explained within the Council statement of case. The Council's evidence clearly links these concerns to the adopted development plan policies and the Council has assessed the proposal and found it would not comply with the requirements of policies CEN1 and CEN2 of the Black Country Core Strategy, Policies D10 and HE3 of the Wolverhampton Unitary Development Plan, and Policies CC3 and CA8 of the Wolverhampton City Centre Area Action Plan 2015-2025.
9. The Council considered that there was conflict with the development plan as a whole and that was ultimately a planning judgement. Therefore, although I appreciate that the appellant disagreed with the Council's judgement and I took a different view from the Council, I do not consider that the Council has acted unreasonably.
10. Overall, therefore, whilst I have fully considered the applicant's submissions, I am not persuaded that the Council has acted unreasonably, including in submitting the additional detailed information from West Midlands Police. As such, I do not agree that the applicant was put to unnecessary or wasted expense.

## **Conclusion**

11. I therefore find, for the reasons set out above, that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, no award of costs is made.

*K Townsend*

INSPECTOR