



Costs Decision

Site visit made on 26 June 2024

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Costs application in relation to Appeal Ref: APP/T2405/W/23/3331315 Kingfisher Farm, Coventry Road, Sapcote LE9 4JU

- 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 Paul Taylor for a full award of costs against Blaby District Council.
 - The appeal was against the refusal of planning permission for construction of commercial storage building.
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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. It adds that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to the substance of the matter under appeal, for example; by preventing development that should clearly be permitted having regard to its accordance with the development plan, or by failing to produce evidence to substantiate each reason for refusal.
4. The applicant states that the Council's refusal of the planning application was based on their contention that the development would result in an increase in traffic to and from the site compared to its lawful use.
5. There is disagreement between the parties as to whether the sales part of the operation is ancillary to the commercial use which was granted planning permission in 2012. However the proposal relates solely to a storage building and the appeal site excludes much of the land on which items for sale are stored or displayed. I agreed with the applicant's suggestion that the provision of the storage building would not be likely to result in an increase in the number of customers. However it is a matter of planning judgement, and it was not unreasonable for the Council to consider that it would.
6. If there were to be an increase in traffic at the site, this could represent a proportionately significant increase in vehicles using the access, even though it would represent a proportionally limited increase in traffic using Coventry Road. I share the applicant's concerns that using TRICS data may not be appropriate given the building would serve an existing operation, but nonetheless it was not unreasonable to anticipate some increase in traffic. The fact that there were no recorded accidents at the site entrance, or that the

works would improve the access, does not necessarily mean that the access would remain to be safe with a perceived increase in traffic.

7. There is disagreement as to the lawfulness of the existing building and the enforceability of the conditions attached to planning permission 11/0462/1/PX. It does appear that the Council's position changed from that in their officer's report which stated that "*as the building has been established on site since at least April 2016 it is considered that the development is now lawful*", whereas in the Council's appeal submission it states that the building is lawful because "*the building as constructed is not materially different to that approved under application 11/0462/1/PX*". However as this matter relates to an existing building which is not on the appeal site, it has little bearing on the consideration of the appeal proposal.
8. Overall, it has not been demonstrated that the Council behaved unreasonably resulting in unnecessary or wasted expense on behalf of the applicant, as described in the PPG. Therefore, the application for an award of costs is refused.

A Owen

INSPECTOR