Costs Decisions

Inquiry held on 10 and 11 September 2024

Site visit made on 11 September 2024

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2024

Costs applications in relation to
Appeal A: APP/W1905/X/24/3342448 and
Appeal B: APP/W1905/X/24/3342466
Brackendale, St James Road, Goffs Oak, Hertfordshire, EN7 6TR

- The applications are made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The applications are made by Mr Angelo Bellini for full awards of costs against Broxbourne Borough Council.
- The inquiry was in connection with appeals against the refusals of certificates of lawful use or development for:
  Appeal A - Carpentry workshop falling within Use Class E(g)(iii).
  Appeal B - Classic Car Restoration falling within Use Class B2.

Decisions

1. In respect of Appeal A, the application for an award of costs is refused.

2. In respect of Appeal B, the application for an award of costs is refused.

The submissions for Mr Angelo Bellini

3. The costs applications were submitted in writing prior to the Inquiry. No further submissions were made.

The responses by Broxbourne Borough Council

4. The responses were made in writing prior to the Inquiry. No further submissions were made.

Reasons

5. 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.

6. The applicant seeks full awards of costs in respect of both of the appeals as it is contended that the Council failed to give proper weight to the Statutory Declarations that were submitted, as well as mistakenly applying weight to the lack of Business Rate records for each of the premises. As such, it is deemed by the applicant that in refusing each of the applications, the Council failed to have due regard to the relevant legal test, i.e., on the balance of probability. It is the applicant's view that had proper regard been had to the evidence, the appeals would not have been necessary.

7. I note that the Council in determining the applications placed reliance on the lack of Business Rate records. However, in the case of the carpentry workshop, the Council also had concern over the information that it had previously been provided with in response to a Planning Contravention Notice, which did not highlight the presence of any carpentry workshop and the Council considered this to be contradictory evidence. It also had concern over the comprehensiveness of the information that was submitted in overall support of the carpentry workshop use. While I have found when making my decision that the evidence was sufficient, I also acknowledge that this is a professional judgement and as such the Council was entitled to reach a different view. I find nothing inherently unreasonable about the Council doing so in this instance.

8. Moreover, in the case of the car restoration, the Council evidently did not consider that sufficient information had been submitted to clearly outline the use of the appeal site. I have found when making my decision in respect of this matter that the site has not been used for the stated use, which aligns with the Council's decision on the application. Again, I find nothing that rises to the level of unreasonable behaviour on behalf of the Council when assessing the submitted information.

9. I note that the applicant particularly highlights the Council's approach to the Statutory Declarations, contending that insufficient weight was placed on them. In this regard, it has to be accepted that Statutory Declarations are themselves evidence, being sworn statements, but the evidence submitted and the weighting to be applied, as well as considering the overall consistency of the submitted evidence, is a matter for the decisionmaker. As I state above, I find nothing fundamentally unreasonable in the Council's approach.

10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted in the case of either appeal.

Martin Allen

INSPECTOR