
Costs Decision

Site visit made on 12 June 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 June 2025

Costs application in relation to Appeal Ref: APP/J2210/W/25/3358717 25 Nunnery Fields, Canterbury, Kent CT1 3JN

- 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 Kohithan Jinenthiran for a full award of costs against Canterbury City Council.
 - The appeal was against the refusal of planning permission for change of use of ground floor from public house to retail together with part single-storey rear extension and external staircase at the rear.
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Decision

1. The application for a full 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 PPG outlines that a local planning authority may be at risk of a substantive award of costs if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicant outlines their view that the proposed convenience store is not a town centre use, and therefore, should not have been subject to a sequential assessment to assess alternative sites within the town centre. Throughout the determination of the planning application, there was clear disagreement between the main parties regarding the extent of the catchment area for the sequential assessment, and whether the proposed use constitutes a town centre use.
5. However, I have not been directed to a definition of a 'town centre use' within the Canterbury District Local Plan (2017), nor prescriptive guidance on the catchment areas for sequential assessments. The decision is therefore one which is a matter of judgement. To that end, the reason for refusal was specific, relevant to the application and related to the relevant policies in the development plan. The council's planning officer report expanded on this and demonstrated a reasonable exercise of planning judgement. Sufficient detail was therefore provided to substantiate the Council's position.
6. The PPG makes it clear that a local planning authority may be at risk of a substantive award of costs if they fail to provide reasonably requested information,

- when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues to be considered being narrowed, thus reducing the expense associated with the appeal.
7. Following the PPG advice that a local planning authority is expected to support the applicant in undertaking the sequential test, the applicant sought to confirm the necessary catchment area with the Planning Officer in an email sent on 15 August 2024. The applicant states that they did not receive a response to their email.
 8. This would have been frustrating to the applicant and, clearly, replying to emails is a common courtesy. However, the Council indicate that the email was missed whilst the Planning Officer was on annual leave. I do not have any evidence of a follow up email or concerted effort being made by the applicant to secure the clarity they sought from their initial email in advance of preparation of their sequential test, which was then submitted to the Council on 20 September 2024.
 9. The submitted evidence¹ indicates that the Council confirmed in advance of its decision that, in the absence of a district wide sequential assessment, the application was to be refused.
 10. In October 2024 the applicant submitted a Sequential Test Addendum to the Council. This confirmed that the applicant considered a district wide assessment to be an unreasonable request and reiterated their belief that a small catchment area was appropriate. Nevertheless the applicant, within the Addendum, confirmed that should the council still require a district wide assessment, they would undertake one.
 11. The submitted evidence indicates that at this point several extensions of time had already been agreed to, and consequently, the Council was not under any obligation to agree further extensions of time in order to permit the applicant to provide evidence which could have been submitted at the beginning of the planning application process. It is not the case that development that should have been permitted has been prevented or delayed, and the decision to appeal and when would have been one for the applicant to make.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. A claim for costs is not therefore justified and accordingly it is refused.

B Pattison

INSPECTOR

¹ Appendix D of appellant's document titled 'Appendices associated with the Appellants grounds for the award of costs associated with the appellants submission of this appeal'