



Costs Decision

Site visit made on 10 September 2025

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 October 2025

Costs application in relation to Appeal Ref: APP/C4615/W/25/3367542 Old Chain Yard, 63 Castle Street, Coseley, Dudley WV14 9DW

- 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 Red Oak Taverns against Dudley Metropolitan Borough Council.
 - The appeal was against the refusal of conversion of the public house (Sui Generis) to a Convenience Store (Use Class E) following the demolition of the single-storey side extension and erection of a new build extension to the rear of the site, utilising existing access off Castle Street, with associated parking, hard and soft landscaping.
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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. The appellant's claim for costs relies on that the Council has acted unreasonably because they consider that the Council has failed to substantiate highways and servicing concerns, considered an internal staircase that is not development and included additional reasons for refusal.
4. The Council's reasons for refusal include concerns over highway safety, with regard to access and servicing. The appellant has submitted technical evidence to support the application, and the Council have not submitted technical evidence in support of their case. However, the Council has reached a professional view based on the information before them, which they have supported with relevant Planning Policies and is therefore not unreasonable.
5. I note the appeal decision¹ provided by the appellant, however, it differs from the appeal before me as members in that case appeared to have made a decision without a site visit or considering evidence from the local highway authority. This is different from the appeal before me where the Council have supported their concerns and referenced relevant planning policy.

¹ APP/Z3825/W/24/3355997

6. The Council's reasons for refusal include concerns over the lack of access to the first floor of the building, which they consider would fail to futureproof the building as a non-designated heritage asset. Upon submission of the appeal the appellant submitted amended plans which now show access to the first floor. However, the Council consider that the proposal should not be amended as part of the appeal. While I have found differently the Council are not unreasonable to state this and their concerns are clear and supported by planning Policy.
7. I note that there is disagreement whether the amendments would constitute development or not, however, even if the changes would not constitute development, it is clear that the Councils concern was the lack of access to the first floor which has been altered through the amendments. The Council were not unreasonable to include this as a reason for refusal, and while I have found differently, they were also not unreasonable to argue that the changes should not be accepted.
8. The Council stated, within their officer report that it is considered that there are no policy grounds to refuse planning permission due to the loss of the public house itself. Despite this, the Council raise concerns over the viability assessment within the statement of case. I note these comments are repeated from the Officer report and the Council state they are matters of fact, however, the purpose of their inclusion are vague and unclear.
9. It is unreasonable for the Council to try and support their case through making vague and unclear comments on the viability report, despite suggesting that there is no reason to refuse planning permission for the loss of a public house. However, this does not form part of the Councils main concerns over the appeal scheme, and the Council has not sought to expand on them further. The appellant has relied on the viability package that was submitted with the application which has therefore not resulted in any wasted expense.
10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs has not been demonstrated.

D Wilson

INSPECTOR