



Costs Decision

Site visit made on 24 April 2018

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 August 2018

Costs application in relation to Appeal Ref: APP/H0738/W/17/3185336 Old Post Office, 7 High Street, Norton, Stockton on Tees TS20 1AH

- 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 Wyns Taverns for a full award of costs against Stockton-on-Tees Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the change of use of ground floor former Post Office and Convenience Store (A1 premises) to proposed bar and restaurant (A3 / A4), including installation of a flue to rear and altered windows / doors.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance (the Guidance) advises at paragraph 30 that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and, in so doing, caused the party applying for costs to incur unnecessary expense in the appeal process. Awards against a local planning authority may be either substantive, relating to the planning merits of the appeal, or procedural, relating to the appeal process itself.
3. With regard to matters of a substantive nature, the appellant's claim is based on a parking stress survey undertaken in respect of a proposal¹ of a similar nature to the appeal scheme and on a nearby site. It is submitted that as the Council accepted the findings of that survey, and because of the proximity of, and similarity with, the scheme that that survey was submitted in support of, there existed sufficient evidence for the Council to conclude that the proposal now before me would not add to parking stress. The Council accept that there are similarities between the proposals in terms of proposed use and floor space and I saw that they are reasonably closely located to each other.
4. They are not, however, identical. Nor are they, despite their relative proximity, located on the same road and, the Council point out, the previous survey did not take account of the then proposed use in terms of that now proposed at the appeal site. The findings of the appellant's recently commissioned and conducted parking stress survey do not differ significantly from those previously found in relation to the other proposal and this, in my judgement, provides correlation and support to the findings of both. Thus, despite the

¹ LPA ref no: 16/2218/COU

circumstances cited by the appellant, I do not consider the Council to have acted unreasonably in seeking to resist the proposal without a current evidence base to underpin the proposal before them and to allow them to consider the proposal on its own merits.

5. Whilst I have reached a different conclusion to the Council with regard to the effect of the proposal on on-street car parking along Norton High Street and the surrounding road network, I do not consider that the Council acted unreasonably in reaching the conclusion that they did. Nor, despite my conclusions in respect of the substantive matters of the planning appeal, do the results of that survey indicate to me that the Council acted unreasonably.
6. With regard to procedural matters the Guidance states that costs cannot be claimed for the period during the determination of the planning application, but is clear that all parties are expected to behave reasonably throughout the planning process and that behaviour and actions at the time of the planning application can be taken into account in considering whether or not costs should be awarded. It goes on to give examples of behaviour that may give rise to a procedural award against a local planning authority in such circumstances.
7. Whilst I note that the appellant became frustrated with delays in the Council's response to correspondence, it is clear to me from the available evidence that the outstanding disputed matter was clear to both parties throughout. Thus, from the evidence before me whilst there remained dispute between the parties regarding parking and highway safety issues, the appellant was aware of a means of working to resolve the impasse. That they chose to do so outwith the application process, having appealed against the Council's failure to determine the application within the proscribed period, was a decision within their gift and does not amount to unreasonable behaviour resulting in unnecessary expense.
8. I therefore conclude that, for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process, as described in the Guidance, has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

Graeme Robbie

INSPECTOR