



Costs Decision

Site visit made on 10 June 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2019

Costs application in relation to Appeal Ref: APP/G4620/W/19/3225427 The Sportsman, St Mark's Road, Tipton DY4 0SZ

- 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 Stublely, on behalf of Heron Foods Limited, for a full award of costs against Sandwell Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the re-development and extension of existing Public House to provide a new Class A1 local foodstore along with associated car parking and servicing.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) 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 costs application essentially relies on the fact that Council officers recommended that planning permission be granted for the proposal, but that the Council Members reached a different conclusion. The applicant alleges that the Committee did so without adequate reason to do so. The applicant also contends that Members did not pay regard to the advice they were given by officers and provided no supporting explanation or evidence to demonstrate the reasons for refusal.
4. The Council has explained that Members undertook a site visit and paid regard to the concerns expressed from residents in respect of noise disturbance and traffic. Furthermore, the Council has provided photographs in its statement of case to support its position and explained its concerns. Therefore, whilst the officer's report properly summarises the policy position and the representations received, Members were entitled to come to their own view. The minutes reflect that the Planning Committee entered into detailed discussion around the merits of the case, before concluding that the proposal should be refused. Moreover, having undertaken a site visit it was able to justify taking a different view based on site specific observations as the weighting of material considerations is a matter for the decision-taker. Subsequently, although I have allowed the appeal, I have not found the concerns of Planning Committee without merit or foundation.

5. Consequently, I consider that the Council's decision in this respect was not so fundamentally flawed or without foundation as to represent unreasonable behaviour. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

Ben Plenty

INSPECTOR