



Costs Decision

Site visit made on 30 September 2019

by Beverley Wilders BA (Hons) PgDURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2019

Costs application in relation to Appeal Ref: APP/G4240/W/19/3233133 239 Two Trees Lane, Haughton Green, Denton M34 7AJ

- 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 Peter Lee (Lees Garden Centre Limited) for a full award of costs against Tameside Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for change of use of former public house beer garden and car park to outdoor storage area associated.
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Decision

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

Reasons

2. Paragraph 030 of the National Planning Practice Guidance (NPPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraphs 046 to 049 set out the circumstances when the behaviour of a local planning authority might lead to an award of costs. These can either be procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. Examples of unreasonable behaviour by a local planning authority includes lack of co-operation with the other party or parties, failing to substantiate each reason for refusal at appeal and refusing planning permission on a planning ground capable of being dealt with by conditions.
4. The appellant's case is essentially that the Council behaved unreasonably by initially refusing to register the application without an amendment being made to the description of development; by insisting on the description being amended so that storage became the predominant use as opposed to it being ancillary to the retail use; by refusing to enter into dialogue or making their concerns known to the appellant and finally by officers being unduly influenced by local councillors as opposed to judging the application on its planning merits.
5. With regard to the description of the development, the Council states that the amended description was formed following a site visit by the Council Officer to discuss the development with the appellant's agent. The Council states that rather than being forced to accept the description, the agent chose to accept it and that the application was validated on that basis. I have not been provided with copies of any correspondence between the parties including any relating to

the description of development and am therefore unable to corroborate either version of events. However, it appears that there is agreement between the parties that permission is required for the outside storage area whether it is the primary use or an ancillary use. Therefore, it seems to me that whilst discussions regarding the description may have delayed the application being registered, even if it could be demonstrated that the Council had behaved unreasonably with regard to the description, it is not clear to me how this behaviour has directly caused the appellant to incur unnecessary or wasted expense in the appeal process.

6. I note from the evidence and from the Council's Officer Report that a number of objections were received in relation to the application, including one from a Councillor. I also note that not all of the issues raised by the Councillor formed part of the Council's reasons for refusal. As can be seen from my decision letter, I agree with the Council that the development is harmful both in relation to the character and appearance of the area and having regard to the living conditions of nearby residential occupiers and I do not consider that the harm could be adequately addressed by the imposition of conditions. I am satisfied that the Council substantiated its reasons for refusal and there is no evidence that it was unduly influenced by local Councillors as opposed to judging the application on its planning merits.
7. In contrast to the appellant's assertions, the Council states that there were discussions/exchanges of correspondence between the parties, though as stated, I have not been provided with copies of any such correspondence. Nevertheless, despite the appellant's claims I have seen no evidence of a lack of co-operation on the part of the Council.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all matters raised, an award of costs is not justified.

Beverley Wilders

INSPECTOR