



Costs Decision

Site visit made on 13 November 2018

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2018

Costs application in relation to Appeal Ref: APP/F4410/W/18/3207029 Broadway Garage, Broadway, Dunscroft, Doncaster DN7 4HU

- 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 T Jackson for a full award of costs against Doncaster Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for a change of use from jet wash to hand car wash.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may only 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 application for costs is based on the view that the Council should not have accepted the response of the Environmental Health Officer as it was outside the consultation period for the planning application, the request for a noise survey and that it misinterpreted its findings.
4. Whilst a consultation response to a planning application should be made within the prescribed period, the Council was within its rights to consider a response after the last date if it raised issues that are pertinent. Not to do so, in my view, would be remiss because its decision would not then be based on a proper appreciation of all of the relevant planning considerations.
5. Given the potential for the proposal to create noise and disturbance, it is unsurprising that the Council requested a noise survey. That the appellant considers there are no noise issues from the existing car wash does not account for noise from the proposal and as the submitted noise impact assessment's (NIA) initial findings set out, a significant adverse impact would occur. These matters further demonstrate the need for the survey to have been carried out.
6. In relation to interpretation, the point is whether or not there would still be a significant adverse impact when the context and the proposed mitigation are considered. As I have set out in my decision, this does not favour the proposal and I share similar concerns to the Council in this regard. Whilst the noise

from the existing car wash is part of the context to be examined, there is not the substantive evidence in the NIA which establishes that it generates higher noise levels than the proposal at the nearest residential properties.

7. Issues raised in relation to the loss of income are beyond what I can consider, as the costs have to relate to expense in the appeal process itself.
8. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not, therefore, justified.

Darren Hendley

INSPECTOR