



Costs Decision

by G Hall BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 29/04/2025

Costs application in relation to Appeal Ref: CAS-03863-N9H6T2

Site address: 75 Ninth Avenue, Galon Uchaf, Merthyr Tydfil CF47 9TN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by D2 PROPCO LIMITED for an award of costs against Merthyr Tydfil County Borough Council.
 - The appeal was against the refusal of planning permission for change of use from residential dwelling to HMO C4 maximum 5 persons
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Decision

1. The application for a full award of costs is allowed in the terms set out below.

Reasons

2. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Para 3.9 of the Annex states that local planning authorities are not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers. They are expected to show that they had reasonable planning grounds for taking a decision contrary to such advice and that they are able to produce relevant evidence to support their decision.
4. The appellant argues that the Council disregarded professional advice and instead relied on speculative reasoning, which was derived from officers' summaries of the responses to the public consultation. They also argue that a site visit was arranged despite its limited relevance, suggesting this reflected a prejudicial stance toward Use Class C4 proposals. In their view, the reasons for refusal lacked evidentiary support, and the Council failed in its duty to base its decision on sound planning grounds.
5. On the issue of the site visit, the costs regime relates to the appeal process, and the Council's reasons for undertaking the site visit are not a matter for me to consider in this cost decision.
6. The Council's Officers reported to its Planning Committee on a number of occasions, each time noting that no objections had been received from its internal consultees and recommending that the application subject of the appeal would not result in unacceptable harm, was in accordance with the development plan and should be approved subject to necessary planning conditions.

7. The Council subsequently refused the application for two reasons, which mainly arose from objections made by local residents and related to issues largely based on concerns about parking and Houses in Multiple Occupation generally, which were not underpinned by evidence that would provide reasonable planning grounds for refusing the application.
8. The LPA had a further opportunity to provide evidence to substantiate its reasons for refusal when submitting its Statement of Case in relation to the appeal. However, whilst that Statement sought to further explain the Council's position on each refusal reason, it did not provide any further evidence that would support reasonable planning grounds for refusal contrary to officer recommendation.
9. Reference is made in the appeal statement to a pre-application consultation undertaken by the appellant, Cllr Isaac's response to this, and that the appellant would not have incurred costs had they taken on board these comments. I am not persuaded that this constitutes a substantive justification for the refusal of permission. A pre-application response from Cllr Isaac, which I have not been provided a copy of, would not override the requirement for the Council to make a decision based on sound planning grounds supported by evidence.

Conclusion

10. I therefore find that the Council acted unreasonably in refusing the application contrary to officer recommendation without reasonable, evidenced planning grounds for doing so.
11. This resulted in the applicant incurring the costs of pursuing the appeal unnecessarily. I therefore find that a full award of costs is justified in this instance. The application for costs should therefore be allowed, in accordance with the terms set out below.

Costs Order

12. In exercise of the powers under section 322C and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, it is hereby ordered that Merthyr Tydfil County Borough Council shall pay to D2 PROPCO LIMITED, the costs of the appeal proceedings described in the heading of this decision.
13. The applicant is now invited to submit to Merthyr Tydfil County Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, an application for a detailed assessment by the Senior Courts Costs Office should be considered.

G Hall

INSPECTOR