



Costs Decision

by Helen Smith BA(Hons) BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 27/11/2024

Costs application in relation to Appeal Ref: CAS-03402-W8Z4H2

Site address: Merthyr Motor Auctions, Red Barrel House, Pant Road, Dowlais, Merthyr Tydfil, CF48 3SH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322C and Schedule 6.
 - The application is made by Mr and Mrs Thomas for a full award of costs against Merthyr Tydfil Car Auction Ltd.
 - The appeal was against the refusal of planning permission for the variation of condition (e) of appeal decisions APP6410/C95/508749 and APP6410/C/95/508750 to allow access to the lower yard after 18:30 hrs for circa 30 vehicles on 2 evenings per week (Mondays and Thursdays).
 - A site visit was made on 4 September 2024.
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Decision

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

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. It states that awards of costs, either in favour of or against interested parties, will only be made in exceptional circumstances.
3. In this case, the applicant raises substantive matters in relation to the analysis on noise, pollution and disturbance, accordance with the development plan, and that circumstances have not materially changed since the earlier appeal decision.
4. Although I have concluded that the condition imposed by the Inspector is necessary, it was imposed some time ago and since then there have been material changes in circumstances in how the site operates, particularly given the implications of the works required in relation to the A465. My decision also involved a degree of subjective analysis based on the evidence before me, including the Noise Assessment. Therefore, it was not clearly the case that the application to vary the condition was not in accordance with the development plan.

Conclusion

5. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Annex, has not been demonstrated. The application for an award of costs is refused.

H Smith

INSPECTOR