



Costs Decision

Site visit made on 10 November 2010

by **Mark Dakeyne BA (Hons) MRTPI**

Decision date: 25 November 2010

**Costs application in relation to Appeal Ref: APP/Y5420/A/10/2133648
Ground Floor, 261 High Road, Tottenham, London N15 4RR**

- 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 Paddy Power PLC for a full award of costs against the Council of the London Borough of Haringey.
 - The appeal was against the refusal of planning permission for the change of use from Use Class A1 to Use Class A2, proposed alterations to shop front, installation of four satellite dishes to flat roof, installation of air conditioning units to flat roof and associated works.
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Decision

1. I refuse the application for an award of costs.

Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the 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 survey carried out by the Council in 2009 covered both primary and secondary frontages. In this respect the survey figure of 60% for the proportion of shops within the centre as a whole should not have been used as a basis for judging whether the proposal complied with Criteria a) of Policy TCR3 of the *Haringey Unitary Development Plan* (UDP).
4. Although the proportion of retail uses formed part of the Council's case, it was not relied upon as the sole reason for refusal. The Council was also concerned about the loss of a prominent retail unit, which was a reasonable position to take. Therefore, the Council would have been likely to refuse planning permission in any event on the basis of Criteria c) of Policy TCR3. As a result an appeal would also have been necessary. It is not a circumstance where the proposal should clearly have been permitted having regard to the development plan (B15 of the annex to the Circular).
5. As far as I am aware the data and figures were factually accurate for the entire shopping centre. Moreover, I do not regard a survey undertaken in 2009 to be out of date for a planning application submitted in May 2010. It was open for the appellant to question, validate or update the information at anytime either in connection with the planning application or appeal. Indeed, such work has been conducted as part of the appeal which I would have anticipated in any event. In that respect the appellant has not been put to unnecessary or

wasted expense, despite the misinterpretation of the survey results by the Council.

6. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has not been demonstrated and that a full award of costs is not justified.

Mark Dakeyne

INSPECTOR