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## Costs Decision

Site visit made on 8 May 2018

**by Andrew McGlone BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 May 2018**

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### **Costs application in relation to Appeal Ref: APP/J2373/W/18/3196247 42 Abingdon Street, Blackpool FY1 1DA**

- 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 JWT Leisure for a full award of costs against Blackpool Borough Council.
  - The appeal was against the refusal of planning permission for change of use from retail to amusement centre (adult gaming centre).
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (the Guidance) advises that costs may 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. Parties in the appeal process are also normally expected to meet their own expenses, and that costs may not be claimed for the period during the determination of the planning application. In order to be successful, an application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
3. The applicant submits that the Council has acted unreasonably as they have failed to demonstrate that there is any conflict with any development plan policy; and failed to produce evidence of any other harm that the proposal would cause. The thrust of the applicant's case is that this appeal is unnecessary as planning permission should have been granted by the Council.
4. I note the Council's officers recommended the application for approval, but the Planning Committee are not bound to accept their officer's recommendation. Abingdon Street, as the Council pointed out, is not specifically mentioned in saved Policy BH18 of the Blackpool Local Plan 2001/2016 (BLP). Ultimately the Council took a view that this meant that the proposal was contrary to this development plan policy. Furthermore, as there is no defined area linked to this policy, it was a judgement that they were entitled to make, even if saved BLP Policy SR6 does infer that this part of the town centre formed the secondary shopping area. While, the applicant disagreed and I formed my own view, the development plan also includes the Blackpool Local Plan Part 1: Core Strategy (2012 – 2027) (Core Strategy).
5. The Core Strategy has more wide-ranging objectives for the town, and since its

adoption, there have been a number of planning permissions granted, and work has started or is about to start on developments in the area near to the appeal site. The Council were correct to consider the effect of these on Abington Street, and how the appeal proposal fitted into this. Much of the Council's evidence was about the potential effect of them and not whether the proposal would prejudice or compromise their implementation. The outcome of this analysis clearly influenced the Council's decision and their view that the scheme would harm the character and appearance of the street and that it would not help fulfil Core Strategy Policy CS17. On this basis, I am satisfied that they did have a handle on the central issues of the case.

6. I do however agree with the applicant that the Council did make vague and generalised assertions about the effect the proposal, whether on an individual or collective basis, on the health and education of Blackpool's population. Although I understood the link the Council tried to make, there was no objective evidence submitted as part of the Council's submissions to support this view. The context to the Council's point was only provided in response to this costs application, which must be considered on its own merits standalone of the planning appeal. Even so, the context is not specific to the scheme itself, notwithstanding its merits. Nevertheless, it has not resulted in an unnecessary appeal, given the conflict that had been identified with the other development plan policies. Nor has it resulted in expenses beyond those which the applicant is expected to meet on their own.
7. Even though I arrived at a judgement different to the Council's, they have made a judgement that they were, in my view, entitled to make based on the evidence before them. Thus, I do not agree that a case of unreasonable behaviour has been clearly demonstrated by the applicant.

### **Conclusion**

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

*Andrew McGlone*

INSPECTOR