The Planning Inspectorate

Costs Decision

Site visit made on 9 August 2016

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 October 2016

Costs application in relation to Appeal Ref: APP/K0235/W/16/3146882
13a High Street, Clapham, Bedfordshire MK14 6EQ

- 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 Stephen Singh for a full award of costs against Bedford Borough Council.
- The appeal was against the refusal of planning permission for development described as *'Change of use from office storage use to residential. No transport and highways impacts of the change of use. No external alterations to the building are taking place outside that permitted under permitted development rights and the development has not taken place already'.*

Decision

1. The application for a full award of costs is refused.

Reasons

2. Planning Policy Guidance 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 expense in the appeal process.

3. The applicant considers that the Council have acted unreasonably in respect of the application which is the subject of the appeal and in particular, that the change of use was permitted under Government Regulations, that the rationale for the decision was flawed and an officer recommendation for approval was overturned. Furthermore, that a revised statement submitted by the Council in response to not having received the original statement of case and to additional information submitted by the appellant, has led to additional work, time and costs.

4. Whilst I appreciate that the applicant does not agree with the Council's consideration of the development, the reason for refusal is a matter of planning judgement based on the evidence put before the Council at that time. Given their conclusions on this matter, which I am satisfied were properly substantiated and reached, an appeal was inevitable.

5. Whilst the applicant may be frustrated by the determination process and the difference of opinion at officer level, it is the decision of the Council that I must have regard to as opposed to a recommendation from one of its officers. In my view that does not amount to unreasonable behaviour that has caused unnecessary or wasted expense in the appeal.

6. The Council contend that they did not receive the appellant's original statement and the appellant also submitted new information at the final comments stage that the Council considered amounted to a new case. Whatever the case may be in relation to the whereabouts of the first statement, the Council highlighted their concerns regarding the new information but did not request an opportunity to revise their statement. It was subsequently considered necessary and appropriate to amend the appeal timetable for the Council to be given an opportunity to respond to the new information with a further period for the appellant to provide any final comments.

7. I do not consider that the Council's behaviour in not having seen the original statement and in revising their statement to take account of the new information to be unreasonable. They were simply responding to additional information that had been submitted and accepted and that they considered to amount to a substantially different case. Any additional expense incurred by the appellant in responding to the Council's revised statement is as a result of the appellant's own actions in submitting the information at a stage in the appeal process where new evidence is not normally allowed.

8. I therefore conclude that for the reasons set out above, unreasonable behaviour by the Council resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason an award of costs is not justified.

Richard Aston

INSPECTOR