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## Costs Decision

Site visit made on 24 October 2016

**by Gareth W Thomas BSc(Hons) MSc(Dist) PgDip MRTPI**

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

**Decision date: 07 November 2016**

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### **Costs application in relation to Appeal Ref: APP/N4205/W/16/3156770 63 Bradshawgate, Bolton BL1 1QD**

- 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 Paul Rothwell of Empire Property Concepts Ltd for a full award of costs against Bolton Metropolitan Borough Council.
  - The appeal was against the refusal to grant approval required under Schedule 2, Part 3, Paragraph O.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) for the change of use from B1a) Offices to C3 dwellinghouses.
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### **Decision**

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

### **Reasons**

2. Paragraph 030 of the Appeals section of the Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. A substantive award is sought on the basis that there were no reasonable grounds for refusal of the application.
  3. References to certain aspects of the decision on the permitted development notification being taken by elected members of the Council contrary to the advice of its officers are acknowledged. However, councillors are not bound by the advice of its officers although they clearly need to justify their stance in planning terms. Similarly the applicant chose to withdraw an earlier application allegedly on the advice of planning officers. However, although this appears now as unfortunate timing as the GPDO changed shortly afterwards thus in essence, requiring noise assessment reports to be submitted, this decision was clearly down to the applicant to make. The delay and timing issues associated with planning and other related applications are matters that should be resolved between the parties. My involvement is limited to matters associated with the appeal.
  4. Turning firstly to car parking, whilst the Council's planning committee must reach decisions having regard to proper planning considerations, it is clear that the Council applies maximum standards in terms of its policy approach, which is consistent with the National Planning Policy Framework. As such, it was open to Members to apply these standards if it so thought appropriate. The
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- applicant makes references to other sites where an alleged different approach was taken. The precise details are not available to me but in any case each proposal has to be considered on the individual planning merits of the particular case. Although the location of the site is clearly sustainable, the Council's policies allow for different approaches to be adopted; discretion was applied in this instance. As the policy was applied albeit stringently, I cannot find that unreasonable behaviour has occurred in relation to the first issue.
5. Turning to the second issue, it is incumbent upon developers to demonstrate that noise levels are such that the living conditions of future occupiers of the units are not unacceptably harmed. The applicant recognises that problems would be likely to occur from traffic, entertainment sources and from pedestrians making their way to and from the town centre. Whilst mitigation proposals were put forward and accepted by officers, it appears to me to be a finely balanced issue. As such, it was understandable that members of the relevant planning committee took a different view of the mitigation that was on offer. Again, the details of other developments permitted in the town centre with or without this type of mitigation are not before me. However, I do not find that unreasonable behaviour has occurred in the way that this aspect was handled by the councillors.
  6. As in all appeals, the onus is on each party to provide sufficient evidence. This is often costly. However I find that the evidence submitted was commensurate with the degree of complexity of issues involved in this case. The areas of concern were properly laid out by the Council and it was incumbent on the applicant to demonstrate the case, which he did so with effectiveness. I do not believe however that the Council has been unreasonable in any regard.
  7. For the above reasons this application for an award of costs is refused.

*Gareth W Thomas*

INSPECTOR