The Planning Inspectorate

Costs Decision

Site visit made on 10 September 2019

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2019

Costs application in relation to Appeal Ref: APP/K0235/W/19/3224388
The Old Maltings, Bedford Road, Milton Ernest MK44 1RJ

- 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 Maltings Land Bedford Limited for an award of costs against Bedford Borough Council.
- The appeal was made against the refusal of planning permission for demolition of existing building and erection of 5 No. residential units with associated parking and ancillary works.

Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably and such behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

3. The applicant's basis for claiming full costs relates to the Council's alleged failure to work proactively with the applicant to resolve outstanding issues before the application was determined; that the decision-making process was unduly prolonged; and that planning permission should clearly have been granted for the proposed development, as recommended by officers.

4. With regard to the first ground, the applicant refers to in-depth pre-application engagement with the Council and a range of other parties, but alleges that the Council was obstructive and evasive, with queries and feedback requests ignored. Evidence is provided in the form of an e-mail exchange between the applicant and the Council's case officer. This shows that the Council gave an initial indication of its concerns to which the applicant quickly responded, but two weeks later the Council had still not responded in turn.

5. The Council indicates that the case officer maintained dialogue with the applicant by a range of means and that a meeting took place with the applicant on 24 September 2018 to discuss outstanding issues. This was eleven days after the applicant's e-mail chasing a response from the Council. It is further explained that the Council was working within a timescale agreed with the

applicant and that the complexity of some of the issues led to some delays.

6. The timescale involved between the Council's initial substantive comments and the follow-up meeting does not in my view amount to a significant delay, particularly where, as the Council indicates, this took place within a broader agreed timescale to deal with a range of often complex issues. Furthermore, and more significantly in terms of the alleged failure, there is nothing in the evidence provided that could reasonably be considered to be obstructive or evasive on the Council's part. Therefore, based on the available information I find no unreasonable behaviour in this regard.

7. On the second ground, the applicant notes that it took over 31 weeks from submission of the application to determination by the Council's planning committee. The Council explains in response that, due to pre-application advice not being fully reflected in the submitted proposal and the need to consult on amended plans, this added to the overall timescale for consideration of the proposed development. Moreover, the Council states that the extended determination date was agreed with the applicant, and that the reason for this being exceeded by a couple of weeks was due to the Christmas holidays. These seem to be reasonable and usual practices reflected in this case, where there was a need for the development scheme to be amended after its submission and where an extended timescale for consideration was agreed between the parties. As such, there is no unreasonable behaviour on the Council's part.

8. The final ground concerns the Council's decision to refuse permission against the officer's recommendation. As a general principle, Council members are not bound to follow officers' advice as long as substantive and supported reasons for refusal are given. In this case, such reasons were provided, particularly with regard to why the Council considered that the proposal amounted to overdevelopment and the specific harmful effects on future occupiers' living conditions. I acknowledge that it could have been made clearer in the Council's appeal statement which specific matters it considered would be harmful in terms of the effect on neighbouring residents. Nonetheless, despite this shortcoming, as a whole the basis for the Council's decision does not reflect an unreasonable approach.

9. Given the shortfall in housing supply, I agree with the applicant that the Council should properly have considered the proposed development in the context of the presumption in favour of sustainable development included in the National Planning Policy Framework. However, it is not possible to infer that had this balancing exercise been undertaken, this would have led to a positive outcome and thereby negated the need for the planning appeal. Therefore, taking these matters as a whole, I find unreasonable behaviour has not been demonstrated by the Council.

10. Accordingly, having considered this costs application on its merits, for the reasons given I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs is not justified.

J Bell-Williamson

INSPECTOR