



Costs Decision

Site visit made on 20 January 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2020

Costs application in relation to Appeal Ref: APP/U3935/W/19/3238711 The Boundary House, 1 The Street, Moredon, Swindon SN25 3ER

- 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 Arkell's Brewery Limited for a full award of costs against Swindon Borough Council.
 - The appeal was against the refusal of planning permission for erection of a canopy and siting of storage container to existing car park for use as car wash/valeting bays.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may 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 application for costs is essentially based on two points. The first relates to the fact that the Council Officers recommended that planning permission be granted for the proposal, but that Council Members took a different course of action without adequate reason to do so. Coupled with this claim, is confusion with regards to the Council Officer's Committee Report. The second claim relates to the overall merits of that decision.
4. Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. In this case I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
6. It will be seen from my decision that I agree with Council Members and that there were sufficient grounds for refusing planning permission on the basis of noise and disturbance to surrounding residents. It therefore follows that I am satisfied that the Council has shown that it was able to substantiate its reason for refusal.
7. With regards to the issue over the presence of two Committee Reports, I accept that the presence of a second, hand amended version of the original

Committee Report is potentially confusing. Nonetheless, it is clear from the timeline before me that the report Council Members considered was clear in its recommendation. Rightly or wrongly, the Committee Report was subsequently hand amended by Officers, so as to reflect the actual decision by Council Members. Clearly, this alteration in no way affected the decision taken by Council Members.

8. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

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

Adrian Hunter

INSPECTOR