



Costs Decision

Site visit made on 19 January 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2021

Costs application in relation to Appeal Ref: APP/B0230/W/20/3260256 618B Hitchin Road, Luton LU2 7UG

- 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 A Mahmood for a full award of costs against Luton Council.
 - The appeal was against the refusal of planning permission for erection of first floor addition over retail unit to provide 1 no. studio flat.
-

Decision

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

Reasons

2. Irrespective of the outcome of an appeal, costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In applying for costs the appellant contends that the Council have acted unreasonably by failing to consider the previous Inspector's comments and introducing new reasons for refusal which could have been dealt with by condition.
4. The Officer's report clearly refers to comments made by the previous Inspector and the Council has substantiated its position with regard to these comments and the scheme before them. As such, there is no substantive evidence to indicate that the Council has failed to consider the comments made by the previous Inspector. As a result, I do not agree that the Council acted unreasonably in this regard.
5. The Council have raised concerns regarding the potential for noise disturbance. Based on the evidence before me this stems from advice from consultees which appears to have been raised during the previous application. The appellant contends that the Council have not acted in a consistent manner by considering a noise assessment would be necessary prior to determination rather than imposing a condition. Every application and appeal is considered on the individual merits of the case and the examples provided by the appellant do not lead me to consider that the Council has acted in an inconsistent manner. Taking the above into account I am satisfied that the Council have not introduced a new disputed matter and not acted in an unreasonable manner.

6. I appreciate that the appellant has undertaken pre-application consultation with the Council. However, informal discussions and advice given before an application is determined is given without prejudice and cannot pre-determine the final outcome of the application.

Conclusion

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason an award of costs is not justified.

B Thandi

INSPECTOR