
Costs Decision

Site visit made on 19 July 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th August 2021

**Costs application in relation to Appeal Ref: APP/K0235/W/20/3265471
Land to the rear of The Bull Public House, 259 London Road, Bedford
MK42 0PX**

- 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 Joseph Gerrard on behalf of Bull Bedford Ltd for a full award of costs against Bedford Borough Council.
 - The appeal was against the refusal of planning permission for 7no. 2-bedroom dwellings with associated parking and landscaping and demolition of outbuildings.
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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 an 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. It has been alleged that the Council behaved unreasonably by ignoring hard evidence presented to it by specialist consultants, by adding reasons for refusal that had either already been resolved or not previously been brought to the applicant's attention, and by taking 16 weeks to determine an 8-week planning application.
4. As will be seen from my decision upon the planning appeal that is the subject of this application, I have found that sufficient information has been provided to demonstrate that acceptable living conditions would be provided for future occupiers having particular regard to noise. However, most particularly as I identified a shortcoming with respect to the timing of noise monitoring, this was a balanced judgement. I thus find that it was not unreasonable for the Council to impose its first reason for refusing planning permission. Indeed, thorough reasoning explaining why the Council considered that noise matters could not be conditioned is contained within the Council's Officer Report. A subsequent acceptance by the Council to the intended submission of a desktop noise assessment post-dates the planning application's October 2020 determination and does not alter my above findings.
5. As will also be seen from my planning decision, the Council's second refusal reason was justified. It has been stated that its imposition was a shock to the applicant given that no reference was made to the issue during the latter stages of the Council's consideration of the planning application. However, I

have not been provided with correspondence confirming the Council's satisfaction in this regard, including any agreement to an approach involving private waste collections. Unreasonable behaviour has not been demonstrated.

6. Whilst it is my understanding that the applicant did not enter into formal pre-application discussions with the Council, it is unfortunate that a requirement to make a financial contribution (towards the provision of off-site outdoor sports space and play areas) was not raised directly with the applicant during the processing of the planning application. It is apparent that ample opportunities for the Council to have done so would have availed, and the National Planning Policy Framework (July 2021) indicates that local planning authorities should take a proactive role in helping to bring forward land suitable for meeting development needs.
7. However, as will be seen from the planning decision, the Council's third reason for refusal was justified. Indeed, costs can only be awarded in relation to unnecessary expense generated at appeal stage and the evidence before me indicates that the Council's lack of clear communication at planning application stage did result in unnecessary expense being incurred by the applicant.
8. For similar reasons, the Council's handling of the planning application (in the sense of failing to meet its statutory 8-week target) is of limited relevance to the outcome of this application for costs. I nevertheless note that delays occurred due (if only in part) to technical matters that awaited resolution. Indeed, multiple consultations with a range of expert internal consultees were undertaken whilst the planning application was before the Council for determination. Most importantly, development was not delayed that should clearly have been permitted.
9. I therefore conclude that, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Thus, having had regard to all other matters raised, an award of costs is not justified.

Andrew Smith

INSPECTOR