



Costs Decision

Site visit made on 1st February 2022

by Megan Thomas Q.C. Barrister-at-Law

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 11th March 2022

Costs Decision in relation to Appeal Ref: APP/D5120/W/21/3280153 Sidcup Sports Club, 49 Sydney Road, Sidcup DA14 6RA

- 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 Joe Pressney for a full application of costs against the London Borough of Bexley.
 - The appeal relates to the refusal of planning permission for demolition of 69 to 71 Sydney Road to provide access road and new residential development for erection of 28 houses and garages on part of the existing sports ground and one and two storey extension to existing clubhouse with associated car parking, without complying with a condition attached to the planning permission allowed on appeal (ref.APP/D5120/A/10/2140206) dated 24 February 2011.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. In this case the appellant is seeking a full award of costs on the basis that in his view the appeal could have been avoided and therefore the costs of the appeal not incurred at all. There are a number of factors which the appellant considers support his case. He points out that there is text in the Officer Report under the headings "Relevant Guidance" and "Approach to Minor Material Amendments" which is needless and irrelevant. He also suggests that the Council did not take an even-handed or an objective approach in its assessment of the proposal and it preferred to take the lead from a previous appeal decision APP/D5120/A/10/2140206 dated 24 February 2011. The latter decision refused permission for the clubhouse and associated buildings to be permitted to stay open later into the night.
4. The appellant is also of the view that the concerns of the local highway authority are unclear and that it should not be "disqualified" by the children's nursery not yet having an approved Travel Plan pursuant to its own planning permission.

5. Turning to those criticisms, having reviewed the Officer Report in the light of these comments, I do not consider that the assessment in it has been anything other than objective or even-handed. There is no undue reliance on the 2011 Appeal Decision. The Officer has made an appropriate assessment of the potential for the living conditions of neighbours to be unduly noisy or disturbed by the earlier opening hours. The fact that I have come to a different conclusion about that issue does not affect the objectivity or reasonableness of the Officer's assessment. Professional judgements can differ on these matters but both can be valid. The contents of the Officer Report are in broad terms all relevant to the matters to be considered and the background to the application to vary condition 22.
6. In relation to the highway issue, whilst it appears to be correct that the children's nursery use has not been enforced against in respect of the lack of an approved Travel Plan, it remains relevant for the local highway authority to highlight that there is the potential for some cumulative effect on the traffic and parking implications at and around the Sports Club as a result of the nursery and the proposed earlier clubhouse/gym opening hours. I do not, therefore, consider that part of the reason for refusal to be unfounded or so unclear as to give rise to a basis for an award of costs.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Megan Thomas Q.C.

INSPECTOR