
Costs Decision

Site visit made on 22 March 2022

by C Sherratt DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 30 June 2022

Costs application in relation to Appeal Ref: APP/K0235/C/21/3287399 & APP/K0235/W/21/3287019

Land known as 20 and 30 Castle Lane, Bedford, MK40 3US

- The application is made under the Town and Country Planning Act 1990, sections 174, 175(7) and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Alom Nahibur for a full award of costs against Bedford Borough Council.
 - The appeal was against an enforcement notice alleging a failure to comply with conditions imposed on a planning permission ref 11/01275/FUL granted on 30 August 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. The case made by the appellant for an award of costs is made in writing and so need not be repeated in any detail here. In brief, the application is that the Council has acted unreasonably by issuing an enforcement notice when the restaurant had, at the time the notice was issued, operated for a period of nearly 10 years with only a limited number of complains having been received throughout that time. Furthermore, the appellant has sought a meeting and clarification on the details required.
4. Again, the Council's full response is made in writing and so I need not repeat it in any detail. The Council reiterates that it had received a number of complaints about noise and odour from the premises. The evidence available to the Council, therefore, highlighted that there was a potential issue with the operations being carried out at the premises prompting the enforcement investigation. Had a meeting being held as requested by the appellant, it would still have been necessary for plans and technical information as requested, to be provided to allow the Council to make an assessment.
5. Furthermore, without a suitably worded condition, the Council can not ensure that the equipment, even if acceptable now, is maintained as such thereafter or, that any future change of equipment or change in its operation is first agreed with the Council to ensure it would always sufficiently mitigate against undue harm to living conditions. Had the Council allowed the situation to

continue without intervention, such that operation without compliance with conditions 2 and 3 became lawful without any condition requiring details of equipment to be in accordance with approved plans and specifications or any changes subsequently agreed, then it may have lost the ability to enforce in the future. In my view the Council did not act unreasonably.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. The application for an award of costs fails.

C Sherratt

INSPECTOR