



Costs Decision

Site visit made on 3 January 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th January 2023

Costs application in relation to Appeal Ref: APP/K0235/W/22/3305950 170 Bower Street, Bedford MK40 3QZ

- 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 Mrs Palbinder Sohal for a full award of costs against Bedford Borough Council.
 - The appeal was against the refusal of planning permission for what was originally described as the change of use from social club to residential dwellings. Creation of 4 apartments.
-

Decision

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

Preliminary Matters

2. The costs application submitted by the Applicant does not expressly state whether a full or partial award of costs is sought. However, by reason of the information contained within the application, I have interpreted it as being for a full award of costs, and I have considered the costs application on that basis.

Reasons

3. 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.
4. The applicants claim for costs relies on whether the Council has failed to have regard to a previously granted scheme, gone against pre-application advice previously given, given conflicting advice in regard to asking for amendments to the scheme and refusing planning permission on a ground capable of being dealt with by a condition.
5. A scheme has been granted previously for the site which was for alterations and change of use from a social club to four private new dwellings which has since lapsed. The scheme before me is different to what was previously granted on site and as such should be considered on its own merits. Notwithstanding this, the Council have had regard to the previous permission which is clearly set out in the officer report whereby it is acknowledged that the principle for development for residential use has been established.
6. A formal request for pre-application advice was made to the Council before submission of the application. I have not seen the precise details that were submitted although I have seen a copy of the advice which does suggest some

support for the scheme. Informal advice given before an application is however given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all relevant factors.

7. In this case, I note from the advice that the proposal has changed and that the officer commented that no information was provided concerning waste and recycling container storage. These matters have contributed to the assessment of the acceptability of the amenity space. Furthermore, the Council adopted the Bedford Borough Council Local Plan in January 2020 which supersedes the previous Development Plan that the expired permission was assessed against.
8. I note that a freedom of information request has revealed internal communication between officers during the consideration of the planning application. I appreciate that this discussion may be unprofessional in nature. However, it is not unreasonable for these discussions between officers to take place, or for there to be differing views when considering an application providing that the final decision is substantiated.
9. The reasons for the refusal set out in the decision notice are complete, precise, specific and relevant to the application. It also clearly states the policies of the Bedford Borough Council Local Plan that the proposal would conflict with. The reasons have been adequately substantiated by the Council in its officer report where it is demonstrated that the proposal would harm the living conditions of future occupiers.
10. The provision of an area of external amenity space, bin, cycle and general storage is a benefit to the scheme, but it does not necessarily follow that the use and function of this space and facilities would be acceptable. The Council have made reasonable assertions about how this space might be used and the conflict there would be with future occupiers which would result in harm to living conditions.
11. The planning application did take some time to consider. However, the Council attempted to work with the appellant in suggesting potential alternatives to overcome some of the harm. This did result in amended plans being submitted and considered by the Council. However, it still resulted in a refusal. Whilst frustrating for the appellant, the Council had sound reasons to refuse the application despite these amendments to the scheme.
12. Whilst I appreciate that the outcome of the application will have been a disappointment to the appellant, the Local Planning Authority were not unreasonable in coming to that decision, and indeed following consideration of the application on its merits alone, I have concurred with the Council.
13. In regard to the Council's third reason for refusal, imposing a condition to secure the private ancillary use of the outbuilding may be difficult to monitor and thus enforce. Consequently, that was not a solution to address the potential future use of the outbuilding and, given its concerns, it was in my view legitimate for the Council to refuse the application for the third reason. I have addressed this reason for refusal in a different way in my appeal decision, but that does not mean the Council acted unreasonably.

14. In view of the above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the application for costs is refused.

D Wilson

INSPECTOR