



Costs Decision

Site visit made on 6 December 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2023

Costs application in relation to Appeal Ref: APP/K0235/W/22/3293212 71 Spring Road, Kempston, Bedfordshire MK42 8LT

- 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 Miss Hayley Murphy for a full award of costs against Bedford Borough Council.
 - The appeal was against the refusal of an application for planning permission for change of use from residential dwelling (C3) to residential family assessment centre (C2) without complying with condition 3 attached to planning permission Ref 18/01090/COU, dated 27 July 2018.
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Decision

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

Reasons

2. Planning Practice Guidance ('PPG') advises that, irrespective of the outcome of the appeal, costs may only 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 applicant's application for costs is based on the alleged unreasonable behaviour of the local planning authority ('LPA') and wasted expense, for substantive reasons, as considered below.
4. Even though the applicant's proposal is predicated on the basis that the number of families residing at the Family Assessment Centre would remain the same as would the existing staffing levels, the proposal is likely to result in some intensification of the occupancy of the property. As to whether or not this would have an effect on highway safety and living conditions, involves some subjective and objective analysis, having regard to the context of the site, the proposal and the development plan and any other material considerations, which in this case included representations from third parties and consultee responses.
5. Indeed, the Council's 'Parking Standards for Sustainable Communities: Design & Good Practice Interim Policy and Supplementary Planning Document' adopted September 2014 ('Parking Standards SPD'), states that in relation to changes of use 'each application will be judged on its merits and solutions arrived at by the application of the principles and guidance set out in this document.' As such, the determination of each application requires a degree of planning judgement.

6. It is also clear that the imposition of condition 3 was to enable the LPA to regulate and control the development of land, and because the property is located within an area where there is high demand for on street, car parking.
7. Notwithstanding, the Council's Highways Officers reference to the proposal accommodating 4 families, overall, the LPAs assessment of the proposal, as set out in its submissions, identifies that the capacity for the number of people residing at the extant Family Assessment Centre would be increased from 4 adults and 4 children to 6 adults and 6 children. Therefore, irrespective of there being no change to the number of families residing at the Family Assessment Centre, the LPA is of the view that the proposal has the potential to increase the number of residents residing at the property.
8. Furthermore, the LPA is concerned that although the application states that staffing levels would remain the same, there is no certainty about visitor numbers and the reasoning and effectiveness of precluding a resident from having a car on-site or using on-street parking.
9. Also, the Council's Parking Standards SPD, states that 1 visitor space is required per 3 beds. On the basis that there could be up to 12 persons residing at the property (occupying 12 beds) at least 4 visitor spaces could be required on top of that needed for staff. Therefore, under the strict application of the Council's parking standards (albeit maximum standards) the scheme could require more parking than that which is shown on the approved plans. On this basis, the proposal could potentially breach the Council's maximum parking requirements.
10. Although the applicant asserts that the business would continue to operate in the same way as when permission was originally granted, the application relates to the use of the site and in the absence of a personal permission, there is no certainty of this.
11. Whilst the applicant has sought to provide the LPA with information, this was considered insufficient to convince the LPA that the proposal would be acceptable, this is a matter of planning judgement. Also, although I cannot be certain, in light of the submissions made by the applicant during the appeal and the LPAs stance, I am not persuaded that even if additional information had been provided at the application stage, that this would have alleviated the LPAs concerns about the proposal.
12. Therefore, on the information before me, in determining the application subject of this appeal, the LPA has had regard to the applicant's evidence and other relevant material considerations and in exercising its planning judgement was unable to support the proposal for the reasons given in its decision.
13. Also, and notwithstanding that I have found in favour of the applicant in respect of the appeal, the LPAs reasons for refusal set out in its decision notice are complete, precise, specific and relevant to the application. These also refer to the relevant development plan policies. Furthermore, the LPAs conclusions about the impact of the proposal are supported by sufficient analysis.
14. Given all of the foregoing, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, a full award of costs is not justified.

M Aqbal
INSPECTOR