



Costs Decision

Site visit made on 7 February 2023

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2023

Costs application in relation to Appeal Ref: APP/B0230/W/22/3306618 163 Barton Road, Luton LU3 2BN

- 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 Makwana for a full award of costs against Luton Borough Council
 - The appeal was against the refusal of the change of use of a dwelling house to a mixed-use day nursery and manager's dwelling house and the erection of a wooden canopy.
-

Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (the PPG) 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. Local Planning Authorities are encouraged, through the PPG, to exercise their development management responsibilities by relying only on reasons which stand up to scrutiny on the planning merits of the case.
3. The Council refused the application for three different reasons. The first pertained to the effect of the development upon the living conditions of the occupiers of neighbouring properties arising from noise and disturbance. In this instance, the Council has referred me to adopted development plan policies that seek to maintain living conditions.
4. In addition, the Council clearly explained the reasons why it believed that the proposed use would differ from a childminding business in terms of intensity. The Council also outlined reasons as to how extra noise could be generated. Therefore, I believe that this point has been properly substantiated.
5. I am aware of representations received from the Council's Environmental Health section. However, such representations are only one of all the matters that must be considered. Therefore, such advice is not binding on the Council's decision-making process as the Local Planning Authority. Furthermore, the Council explained the reasons why this advice has not been followed. I therefore do not find this approach unreasonable.
6. In respect of the loss of a family dwelling, the Council has adequately explained the reasons why the retention of family dwellings is important in the locality. Furthermore, the Council outlined the reasons why it believed that the operation of the proposed use would prevent the building from operating as a

family dwelling in line with the level that might be expected if the proposed use were not to proceed. I am therefore unable to find that this assessment has been unreasonable.

7. In respect of the effect of the development upon the character and appearance on the surrounding area, the Council outlined the reasons why it believed that the development would impinge upon the area's character. In addition, it assessed the effects of the development against the requirements of adopted, relevant, Development Plan policies.
8. Therefore, although I have disagreed with the conclusions reached by the Council in this regard, I am unable to find that this approach has been unreasonable, or improperly substantiated. This is because the assessment of a development on the character of a surrounding area is predominantly the exercising of professional judgement. Therefore, given the process followed by the Council, I am unable to find fault with the conclusions reached.
9. In result, I cannot agree that the Council has acted unreasonably in this case. As such, I do not believe that the appellant was put to unnecessary or wasted expense. Therefore, an award of costs is not justified.

Conclusion

10. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Benjamin Clarke

INSPECTOR