
Costs Decision

Site visit made on 7 February 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2023

Costs application in relation to Appeal Ref: APP/K0235/W/22/3298010 Greys Farm, Wymington Road, Podington NN29 7HP

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr A Mahon for a full award of costs against Bedford Borough Council.
 - The appeal was against the failure of the council to give notice within the prescribed period of a decision on an application for planning permission for the change of use of agricultural building to light industrial (Use Class E (g) (iii)).
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) makes it clear that parties in planning appeals normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary expense in the appeal process. For example, on procedural grounds a lack of co-operation with other parties or failing to adhere to deadlines, or on substantive matters such as delaying development that should clearly be permitted.
3. The application relies on the fact that the Council failed to determine the application within the prescribed time limits; concern regarding a lack of communication with the Council during the application process; and that the Council misinterpreted a policy in the Bedford Borough Council Local Plan 2030¹, adopted 2020 (LP) and therefore the proposal should have been approved.
4. It is clear that the planning application process ran beyond the 8-week deadline. However, it appears that at least some of this was a result of the Council attempting to negotiate with the applicant and time taken to re-consult with the Council's Environmental Health Officer following the submission of additional information by the applicant. Nevertheless, it also appears that the Council did not progress the application or respond to the applicant for periods of time. I note the Council's concerns regarding staffing and the Coronavirus pandemic, but I find that their behaviour in not responding to the applicant was nonetheless unhelpful.

¹ Bedford Borough Council Local Plan 2030 Planning for the Future, adopted 2020

5. I acknowledge that the Council, in concluding that the proposal did not comply with the circumstances detailed at (i) to (iv) of Policy 75 of the LP, misinterpreted the policy. However, as the proposal did not comply with the criteria listed at (v) to (x) of LP Policy 75, an appeal would have still been necessary, even if the Council had determined the application within the required timeframe. Furthermore, the Council were not unreasonable in coming to that decision, as following consideration of the application on its merits alone, I have concurred with the Council. Accordingly, the Council's misinterpretation of the development plan policy was inconsequential.
6. Although the Council's behaviour was not helpful, for the reasons detailed above, I do not find that the Council delayed a decision which should have otherwise been allowed and as such, the applicant's costs associated with the appeal were a necessary part of the process.

Conclusion

7. I therefore find that unreasonable behaviour by the Council, resulting in unnecessary and wasted expense in the appeal process, as described in the PPG, has not been demonstrated. Therefore, an award of costs would not be justified in this case.

A Berry

INSPECTOR