



Costs Decision

Site visit made on 6 March 2023

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Costs application in relation to Appeal Ref: APP/ W2845/W/22/3290853 The Windmill Inn, Main Street, Badby NN11 3AN

- 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 G Warr of Warr Investments Limited for a full award of costs against West Northamptonshire Council.
 - The appeal was against the refusal of planning permission for change of use of public house (sui generis) to single dwelling (Class C3) and other alterations to the grounds to form associated parking and garden areas.
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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, in either a substantive or procedural way, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant claims that the Council's decision has delayed development which should clearly have been permitted having regard to planning policies and other material considerations; that Councillors made vague, generalised or inaccurate assertions about the proposal and the period for marketing; that there was not evidence to substantiate the assertion that the marketing exercise had been inadequate; and that Councillors had no evidence to assert that the loss of the public house would adversely affect the village.
4. The Council's statement of case clearly set out its reasoning for finding that the marketing exercise has been inadequate. This relates primarily to the impacts of the Covid-19 pandemic on marketing. It was entirely reasonable for the Council to raise such concerns given the economic uncertainties caused by the pandemic. The Planning Committee Minutes show that Councillors clearly stated their concerns around the marketing exercise. I have found that the property has been appropriately marketed to demonstrate that the proposal would not result in the unacceptable loss of a community facility. However, the issue of marketing, including approaches to the process and length of time, is a matter of judgement having regard to the evidence submitted and the specific circumstances of the case.
5. In relation to the effect of the proposal on the village, the Council has explained that it gave greater weight to the evidence provided by the local

community and were not persuaded by the applicant's assertion that other facilities in other villages or nearby would provide a suitable or comparable alternative to the Windmill pub. An element of judgement was required in making an assessment on the impact of the change of use on the village, having regard to the specific circumstances of the case. There was reasonable scope for alternative viewpoints to be held in relation to this matter.

6. The applicant says that the Council requested that an independent assessment be undertaken in respect of the other public house and village accommodation. However, it was not unreasonable of the Council to request such additional information as it considered necessary to properly assess the proposal. This has not therefore led the applicant to incur unnecessary or wasted expenditure in pursuing the appeal.
7. While I have agreed with the applicant's case, the Council were entitled to reach a different conclusion over whether the scheme accorded with the development plan and material considerations. The decision notice identifies the harm that the Council considered the scheme would cause, and identifies the relevant development plan policies with which it was considered the scheme would conflict.
8. The Council's decision stands scrutiny relative to the statutory approach to decision-taking. The dispute was a matter of planning judgement, rather than the applicant being forced into an appeal by consequence of unreasonable behaviour. It therefore follows that I cannot agree that the Council behaved unreasonably in preventing a development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

M Offerenshaw

INSPECTOR