



Appeal Decision

Site visit made on 21 March 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2023

Costs application in relation to Appeal Ref: APP/N0410/W/22/3306851 Burnham Football Club, Wymers Wood Road, Burnham, SL1 8JG

- 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 Peter Coe of Burnham Football Club against the decision of Buckinghamshire Council - South Area (South Bucks).
 - The application Ref PL/21/2556/FA, dated 25 June 2021, was refused by notice dated 22 March 2022.
 - The appeal was against refusal of the Council to grant planning permission for the replacement of the existing lighting at Burnham Football Club, Wymers Wood Road, Burnham, Slough and times of use.
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Decision

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

Reasons

2. Irrespective of the outcome of appeal, the Planning Practice Guidance (PPG) indicates that costs may be awarded where a party has behaved unreasonably, and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The grounds on which the application is made relate to the fact that the Council Members refused planning permission contrary to the professional advice of the Council officers.
3. Although the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council must clearly demonstrate on planning grounds why a proposal is unacceptable. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal.
4. The reason for refusal reflects the view of the Council Members and indicates that the intensification of the use of the site, as a result of the use of the floodlights, would lead to unacceptable noise impacts, to the detriment of the residential amenities of surrounding properties. Whilst acknowledging the findings of the Noise Assessment (NA), the Council, as articulated within their statement of case considered the spatial distribution of the monitoring equipment did not provide a true representation of noise at all sensitive receptors. The evidence shows that this view was taken on the basis that the football ground has different relationships with the neighbouring properties due to its shape and varied boundary screening and, that different areas would be subject to different types and levels of noise during a football event.

5. The Council explains in its rebuttal to the application that Members originally deferred the determination of the planning application at the initial Committee meeting in order to provide the applicants with an opportunity to address their concerns. Whilst I understand that a technical statement to support the submitted NA was subsequently submitted, the applicant chose not to undertake additional noise monitoring as requested by the Committee.
6. The Council's reasoning clearly acknowledges the technical evidence submitted by the applicant together with the advice of officers and thereafter sets out why it considers the noise data to be misrepresentative of the potential noise effect. Therefore, based on the evidence before me, I am not persuaded that the Council's reasoning was unsubstantiated, vague or indeed unsupported by objective analysis. As such, I do not agree that the Council acted unreasonably in this case.

Conclusion

7. For the reasons outlined above, I find that unreasonable behaviour resulting in unnecessary or waste expense, as described in the PPG has not been demonstrated.

H Wilkinson

INSPECTOR