



Costs Decision

Hearing held on 8 August 2023

Site visit made on 8 August 2023

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2023

**Costs application in relation to Appeal A: Ref: APP/Y0435/W/23/3319810
The Foresters Arms Public House, 21 Newport Road, New Bradwell, Milton
Keynes MK13 0AG**

- 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 Paul Newman New Homes for an award of costs against Milton Keynes City Council.
- The appeal was against the refusal of planning permission for a full planning application submission to Milton Keynes Council by Paul Newman New Homes for the demolition of the Foresters Arms Public House class A4 and redevelop for residential development class C3 at 21 Newport Road, New Bradwell.

**Costs application in relation to Appeal B Ref: APP/Y0435/W/22/3313306
The Foresters Arms Public House, 21 Newport Road, New Bradwell, Milton
Keynes MK13 0AG**

- 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 Paul Newman New Homes for an award of costs against Milton Keynes Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a full planning application submission to Milton Keynes Council by Paul Newman New Homes for the demolition of the Foresters Arms Public House class A4 and redevelop for residential development class C3 at 21 Newport Road, New Bradwell.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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.
3. 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.
4. The Council's refusal of Planning Permission for the development proposed under application Ref: 22/03135/FUL included concerns regarding the effects on biodiversity and drainage. At the hearing, the Council confirmed that following the submission of additional information, these reasons were withdrawn.

5. However, in respect of Planning Decision Ref: 22/03135/FUL that the Council was only able to withdraw these reasons following the submission, and consideration, of the appeal documentation. However, I understand, from the applicant's submission, that this documentation was provided imminently before it determined the planning application.
6. Given this relatively short time frame, it was not unreasonable for the Council to base its decision upon information that had been formally submitted; and had been the subject of appropriate consultation with members of the public and other consultees creating a delay in the consideration of the planning applications. In result, it was not a requirement for the Council to defer determination of the planning application.
7. In addition, at this juncture, the Council could not have had certainty that the additional information would have addressed the concerns raised in the lead up to the determination of the planning application. In result, it cannot be said that the Council demonstrated a lack of co-operation with the applicant. This is not, therefore, evidence of unreasonable behaviour.
8. In respect of heritage matters, the conclusion on whether a building represents a Non-Designated Heritage Asset represents a degree of judgement regarding many different factors. In this case, the Council clearly explained how it reached its view in respect of this matter, having regard to the appeal site's individual history. This is not evidence of unreasonable behaviour, for the Council's view was fully justified.
9. In addition, having reached a view as to whether the appeal site represented a Non-Designated Heritage Asset, the Council then assessed whether there were any benefits to the proposed development.
10. Although I have disagreed with the Council, in that the development did give rise to some benefits (albeit not sufficient to outweigh the harm), this does not represent unreasonable behaviour given that it represents the application of policy and the requirements of the National Planning Policy Framework.
11. In refusing planning permission, and outlining its putative reasons for refusal, the Council has suggested that Policy HE1 of Plan:MK (2019) elevates Non-Designated Heritage Assets to the same level of importance of Designated Heritage Assets. However, I have been unable to find any reference to this elevation within the policy.
12. This means that the appellant was required to include a rebuttal of this point in their Statement of Case in respect of both appeals. However, given that the other matters that needed to be covered within the submission of the appeals, such as whether the appeal site was a Non-Designated Heritage Asset and the potential benefits of the proposed development, I do not believe that this amounts to wasted expense as appeal proceedings would have been required any event.
13. In result, it is clear that the Council has not prevented, or delayed, development which should clearly have been permitted through the misquoting of the requirements of Policy HE1 of Plan:MK.
14. In consequence, I cannot agree that the Council has acted unreasonably in these cases. As such, I do not believe that the appellant was put to

unnecessary or wasted expense. Therefore, an award of costs; either partially, or in full; is not justified.

Conclusion

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

Benjamin Clarke

INSPECTOR