



Costs Decision

Hearing held on 15 November 2023

Site visit made on 16 November 2023

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th February 2024

**Costs application in relation to Appeal A Ref: APP/P0240/W/22/3313193
The Red Lion, 1 London Road, Biggleswade, Central Bedfordshire
SG18 8ED**

- 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 Elliott Builders Ltd for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of planning permission for development described as the conversion of former public house to one (1x) dwellinghouse, demolition of single-storey rear extensions, and conversion of outbuilding into garaging and storage building.
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**Appeal B Ref: APP/P0240/Y/22/3313199
The Red Lion, 1 London Road, Biggleswade, Central Bedfordshire
SG18 8ED**

- The application is made under the Planning (Listed Buildings and Conservation Areas) Act 1990, sections 20, 89 and Schedule 3, and the Local Government Act 1972, section 250(5).
 - The application is made by Elliott Builders Ltd for a full award of costs against Central Bedfordshire Council.
 - The appeal was against the refusal of listed building consent for the conversion of former public house to one (1x) dwelling-house, demolition of single-storey rear extensions, and conversion of outbuilding into garaging and storage building.
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Decision

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

Preliminary matters

2. In relation to appeal A, at the hearing the applicant submitted a revised Swept Path Analysis drawing¹ to demonstrate the ability to turn a 6.5 metre long vehicle within the site. In response, the Local planning Authority (LPA) confirmed that this addressed its concerns in relation to highway safety and therefore overcomes its fourth reason for refusal.
3. Accordingly, the applicant withdrew the associated text from his application for costs in relation to highway matters. I have therefore not considered this matter further in relation to this application for costs.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a

¹ Swept Path Analysis using a 6.50M panel van, drawing No. 2819-003, by CAD Precision Ltd

party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

5. The applicant considers the LPA to have acted unreasonably in the way that it handled both applications for planning permission and listed building consent, causing a significant and unnecessary delay in obtaining consent and thus they have incurred unnecessary and wasted expense in pursuing the appeals. Consequently, they are of the view that the LPA has prevented development that should clearly have been permitted, having regard to its accordance with the development plan.
6. Furthermore, the applicant alleges that the LPA did not work in a positive and proactive manner to seek solutions that could have overcome its concerns. Instead, they consider that the LPA has made inaccurate assertions about the impact of the proposals which could have been overcome by seeking additional information or by the imposition of planning conditions.
7. The PPG makes it clear that LPA's will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate each reason for refusal or by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. In addition, LPA's are required to work in a positive and proactive manner, seeking solutions to problems that may arise while dealing with planning applications.
8. However, in this case, as can be seen from my decision, the applicant's Heritage Statement was woefully deficient and the plans and drawings accompanying the applications resulted in a great deal of ambiguity. This was not therefore a case where a modest submission of additional information would have overcome the LPA's concerns. At the point of submission, it was reasonable for the LPA to have expected plans, drawings and supporting documentation of sufficient detail to adequately illustrate and/or describe the proposals in order to avoid any uncertainty over the extent of what is proposed, and to allow a robust assessment of any consequent effects. The applicant's proposals fell significantly short of that expectation.
9. My decision sets out why it would not be appropriate or reasonable to leave such substantive matters to be dealt with by conditions, therefore I cannot agree with the applicant's assertions in this regard. Furthermore, without repeating my reasons here, I largely agree with the LPA's assessment of the proposal and its likely consequent effects. Therefore, the LPA has demonstrated that there were sufficient grounds upon which to withhold its consent, and so it has not prevented or delayed development which should clearly have been permitted.
10. I am also satisfied that due consideration has been given to the existing on-site circumstances, and my decision details why this does not amount to a material consideration that would outweigh the harm identified in this case.
11. For all these reasons, I cannot agree that the LPA has acted unreasonably in this case. Consequently, there can be no question that the applicant incurred unnecessary or wasted expense.

Conclusion

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

J M Tweddle

INSPECTOR