



Costs Decision

Hearing held on 7 December 2023

Site visits made on 6, 7 and 8 December 2023

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2024

**Costs application in relation to Appeal Ref: APP/Z1510/C/22/3299386
Land known as Stock Street Farm Barn, Stock Street Farm, Stock Street,
Coggeshall, Essex CO6 1NX shown red on the attached plan ("the Land").**

- 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 M Staines for a full award of costs against Braintree District Council.
 - The hearing was in connection with an appeal against an enforcement notice alleging: Without planning permission the change of use of the Land from Use Class B8 Storage to a mix of uses (as listed below):
 - Use Class E(d) Indoor Sport, Recreation and Fitness;
 - Sui Generis Public House/Drinking Establishment;
 - Sui Generis Wedding Venue;
 - Sui Generis Music Venue;
 - Sui Generis Cinema;
 - Sui Generis Dance Hall;
 - Sui Generis Concert Hall;
 - Sui Generis Hot Food Takeaway; and
 - Associated Parking
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Decision

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

Submissions

2. A written submission was provided by the applicant and read out at the Hearing. The respondent provided written comments after the Hearing and the applicant's comments on the response were provided subsequently, in writing.

Reasons

3. The Planning Practice Guidance (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.
4. The applicant claims that the Council failed to scrutinise the information it relied upon relating to land ownership. But I have not found this to be the case and this argument has not been further substantiated. As set out in my appeal decision, there is legitimate concern that land ownership issues could prevent resolution of all highway safety concerns and the statutory consultee in this regard, National Highways, is concerned by the change of use.

5. In response to the Planning Contravention Notice, the appellant stated that any enforcement notice to stop the use would be appealed. But this makes no difference and the Council was entitled to take enforcement action when it did, drawing on the statutory powers available to it under Part VII of the 1990 Act.
6. The applicant refers to a high probability of a last-minute deferral of the Hearing due to what is referred to as the Council failing to adequately and directly notify interested parties. But there is no evidence that the Council's publicity of the appeal or the Hearing was inadequate or insufficient to comply with the relevant rules¹ in this regard. This is particularly the case given the Council's publication of a press notice, the relatively isolated location of the appeal site and the number of people who attended the Hearing.
7. Unnecessary and wasted expense in securing public attendance at the Hearing has been referred to by the applicant. But as set out in PPG, parties in planning appeals and other planning proceedings normally meet their own expenses. Moreover, there was no requirement for any members of the public to attend the Hearing, particularly where they had provided written submissions in accordance with the rules.
8. The applicant refers to a failure to post appellant materials onto the Council's planning portal and a mislabelling of data. Even if this is what happened, there is no evidence it has made any difference in the appeal, particularly taking into account the significant level of engagement from interested parties who submitted written submissions and attended the Hearing to speak in support of the appeal development.
9. A failure by the Council to determine a planning application is referred to by the applicant (Ref 20/00009/FUL). But that planning application is not before me and the dispute between the applicant and the Council in this regard is a matter for judicial review. It makes no difference whether this was the first time the Council decided to decline to determine a planning application or not.
10. In the costs application, the applicant has provided this list: highways, traffic consultant, crash map costs, heritage consultant, licensing, Planning Direct, Neighbourhood Plan Team and members of the public. But the applicant's case in this regard is not clear and for the purposes of a costs application, it is not sufficient to merely list who has been involved. An application for costs needs to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
11. The applicant refers to social media and customer activity and a direct loss of earnings from multiple events cancelled in response to a press release issued by the Council about the enforcement notice. But there is no reason why a local planning authority should not publicise its enforcement action if it so wishes. Doing so may act as a deterrent for those who may breach planning control and may assist in keeping the community informed, including users of the venue who may be affected by the Council's actions.
12. Based on the press release provided, there was no requirement for the applicant to cancel any events. If customers cancelled bookings, having learnt about the use being unauthorised, this is a consequence of the applicant choosing to operate the use in breach of planning control, before obtaining

¹ The Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002

planning permission. It makes no difference whether the Council usually issues press releases about enforcement action or not. It may have decided to do so in light of the popularity of the venue in this case.

13. The applicant alleges that the Council refused a request for a pre-planning meeting. But it seems to me that, following a succession of attempts to regularise the breach, the main parties are fundamentally at odds on the main issues in the appeal. So a meeting would not likely have resulted in either the appeal being avoided altogether or the issues to be considered being narrowed.
14. The applicant indicates that the Council has failed to consider the optimum viable use. Based on the written submissions made, I am not satisfied this is the case and even if it were true, it has not made any difference, as I have found in my appeal decision.
15. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

L Perkins

INSPECTOR