



Costs Decision

Site visit made on 9 July 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2024

**Costs application in relation to Appeal Ref: APP/N0410/W/24/3338793
McDonalds Restaurant, 37 Oxford Road, New Denham, Denham,
Buckinghamshire UB9 4DA**

- 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 Steven Bainbridge (Instavolt Ltd) for a full award of costs against Buckinghamshire Council.
 - The appeal was against the refusal of planning permission for installation of two rapid electric vehicle charging stations within the car park. Three existing parking spaces will become EV charging bays, along with associated equipment.
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Decision

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

Preliminary Matters

2. The costs application does not state whether a full or partial award of costs is being sought. I have treated the application as seeking a full award although I am conscious that a partial award may also be granted.
3. The applicant has requested that the costs application be extended to the local highway authority as well as the local planning authority. In this case, Buckinghamshire Council are both authorities and so I have treated the application as simply seeking costs against the Council.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance advises 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. This application claims unreasonable behaviour from the Council in terms of (i) failing to produce evidence to substantiate its refusal reason, (ii) providing information that is manifestly inaccurate or untrue, (iii) making vague, generalised or inaccurate assertions about the proposal's impact without objective analysis, (iv) preventing development which clearly should be permitted having regard to its accordance with the development plan, national policy and any other material considerations, (v) introducing a new refusal reason, (vi) concealing evidence, and (vii) not reviewing its case promptly following the appeal being lodged.
5. The Council officer's report on the associated planning application as well as additional statements have been submitted in response to the appeal. These explain and expand upon its reason for refusing planning permission as set out

on its decision notice. Therefore, the Council has not failed to produce evidence to substantiate its concerns.

6. The Council is of the view the car park provides 35 spaces. This figure is disputed by the applicant, partly due to the issue as to whether spaces for drivers waiting at the drive-through kiosks' should be counted. To my mind, this is a matter of interpretation. I am taken to no guidance or definition for parking spaces and so the Council's submissions on the matter are not manifestly untrue, even if the applicant's contentions are accepted.
7. The Council's submissions set out the reasons why it considers the proposal would reduce parking opportunities on the site and explain why it considers this would lead to waiting vehicles on the highway. The contentions follow a logical reasoning and possible impacts on highway safety are identified. The Council's assertions are clearly explained and are not vague.
8. I have arrived at a different view to the Council on the main issue. However, there is an element of judgement involved in assessing the effect of the development on highway safety. The Council's case is based on the potential implications of a reduction in parking and so it is reasonable, even though there is no evidence of the road or access to the site being currently unsafe. In light of paragraph 115 of the National Planning Policy Framework (the Framework), the Council was entitled to consider the development's effects on highway safety and come to a view that they would be unacceptable. On arriving at a view that the scheme would cause harm, the Council has not prevented development that clearly should have been allowed having regard to relevant planning policy. No development plan policies were referred to in support of the Council's objections but this does not mean they are irrelevant considerations.
9. The application states that the Council would be introducing a new refusal reason if it contends the scheme is contrary to development plan policies. Section 4 of the Council's appeal statement lists planning policy documents but there is no claim that the development is in conflict with any development plan policies. No new refusal reason has been advanced as part of the appeal process.
10. The Council has provided evidence from a highways officer in addition to its appeal statement and officer's report. This expands on the Council's refusal reasons by referring to specific parts of the Buckinghamshire Council Local Transport Plan 4 adopted 2016 and the Buckinghamshire Council Highways Development Management Guidance document 2018. To my mind, this is not evidence of withholding information but instead it is an understandable and fair response to the appeal.
11. The applicant invited the Council to consider its position before and after the appeal was lodged. The Council has decided to proceed with advancing its case. This is fair given its position that the development prejudices highway safety. It does not follow that the Council has refused to review its position. Indeed, despite the applicant's submissions, it is evident that the Council still considers there would be an unacceptable effect on highway safety.
12. The applicant claims the Council has failed to consider other factors. These include a claimed fallback position provided by permitted development rights, the environmental benefits of the development and the tilted balance as

referred to in paragraph 11(d) of the Framework. However, through its appeal statement the Council has contended that the fallback position attracts limited weight, that the tilted balance does not apply and that the harm caused by the development outweighs its benefits. The Council as a decision-maker is entitled to attribute less weight than the applicant on these factors in its assessment of the scheme.

13. For the above reasons, I find no unreasonable behaviour by the Council that has led to the applicant incurring unnecessary or wasted expense in the appeal process. Therefore, I conclude an award of costs is not justified.

Jonathan Edwards

INSPECTOR