



Costs Decision

Site visit made on 15 July 2024

by J Reid BA(Hons) BArch(Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

Costs application in relation to Appeal Ref: APP/C3810/W/23/3332996 Rocks Bar & Restaurant, 41-43 High Street, Bognor Regis PO21 1RX

- 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 Carl Turney of Slades Bar for a full award of costs against Arun District Council.
 - The appeal was against the refusal of Change of use of existing Class A3 restaurant & cafe to Class A4 drinking establishment without complying with conditions 3 and 4 attached to planning permission Ref BR/73/16/PL, dated 8 August 2016.
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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 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. The application was made in a timely manner.
4. The Council's representations include the advice of its officer regarding the history of noise and licencing complaints relating to the premises. Whilst the Council is not bound to accept the recommendations of its officers, it exercised its judgment over the timescale it considered appropriate in the light of its local knowledge and relevant up-to-date policy and guidance.
5. The Council considered the appellant's noise impact assessment (NIA). It was entitled to find that compliance with the NIA's recommendations would not be enough to outweigh the identified harm. So, the imposition of suitable conditions would not enable the proposal to go ahead. The Council's statement shows that it reviewed its case at appeal, but as the Council had made its case at the application stage, there was no need to provide more evidence.
6. The Council's reason for refusal is complete, precise, specific and relevant to the application. As residential occupiers' living conditions involve the exercise of judgment, the proposal was not development that could clearly be permitted. For the reasons given in the Council's officer's report and its decision notice, the proposal was not in accordance with the Development Plan, and material considerations including national policy did not indicate otherwise. So, the Council's behaviour was reasonable, and it has substantiated its case.

7. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J Reid

INSPECTOR