



## Costs Decision

Site visit made on 23 September 2024

**by Juliet Rogers BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 October 2024**

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### **Costs application in relation to Appeal Ref: APP/L3245/W/24/3342722 The Swan Inn, Highley Road, Knowle Sands, Bridgnorth WV16 5JL**

- 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 Dr Kay Gibbons of Kay Gibbons Holdings Ltd - The Swan Inn (the applicant) for a full award of costs against Shropshire Council (the Council).
  - The appeal was against the refusal of planning permission for the change of use of a public house to a single dwelling.
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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 (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. The applicant asserts that the Council behaved unreasonably by not acknowledging that the B4555 is dangerous or has affected the financial viability of the public house.
4. From my site visit observations, the existing speed limit, poor visibility for drivers exiting the car park and the lack of suitable pavements in Knowle Sands to provide safe and convenient pedestrian access to The Swan Inn may have been a contributing factor to its decline. I also acknowledge the significant and long-standing concerns of the local community regarding the safety of the B4555. I sympathise with the applicant's situation but I have no powers available to me through this appeal process to alleviate these concerns.
5. Even if the Council had agreed with the applicant regarding the safety of the road, given the change of use of the public house to a single dwelling would lead to the loss of an existing facility, evidence to demonstrate the use is not viable in the long term was necessary. In any event, the Viability Assessment (VA) confirms other factors have contributed including poor trading conditions and the increasingly polarised market, in addition to the condition of the road.
6. The timing of the Council's email<sup>1</sup> providing guidance on the details to be provided within a VA the day before the decision notice was issued was undoubtedly frustrating to the applicant. Despite this, the evidence before me indicates that this was not the first time that further information was requested by the Council to assess the proposed change of use against the requirements

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<sup>1</sup> Email dated 16 October 2023

- of Policy CS6 of the Core Strategy<sup>2</sup>. Whilst it provides no detail or guidance as to how this should be achieved, Policy CS6 does require a clear demonstration that the existing facility is not viable over the long term. A VA is one way, albeit not the only way, to demonstrate this. Indeed, some evidence was provided by the applicant with the planning application, including a valuation of the property, other property valuations and sale figures. However little information regarding the viability of the public house business itself was not forthcoming.
7. Whilst other change of use applications may have been permitted by the Council, no evidence of these has been provided nor what information was submitted to support a clear demonstration of the viability of each of the public houses. As such, I am unable to conclude that the Council's decisions have been inconsistent.
  8. Although the determination period of a planning application provides an end date or target date, this does not preclude the Council from issuing a decision within a shorter timeframe. Additionally, the preparation of an Officer's Report is not a mandatory requirement, provided the reasons for the Council's decision are set out on the decision notice with relevant policies indicated. Although succinct, the Council's decision notice achieves this.
  9. I appreciate that the outcome of the planning application will be a disappointment to the applicant and I acknowledge that as a private individual, navigating the planning system is not easy. It is also evident that the applicant has undertaken a significant amount of additional work to support the proposed development during the appeal process. However, given the limited viability information submitted with the planning application, the Council were not unreasonable in coming to its decision based on the evidence before them at the time. Therefore, the appeal could not have been avoided.
  10. The Council's actions during the processing of the application, whilst frustrating for the applicant, are not sufficient to conclude they acted in an unreasonable manner that led to the need to submit the appeal.
  11. The fact that the Council has submitted an application for costs is not, in itself, unreasonable behaviour.
  12. Therefore, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*Juliet Rogers*

INSPECTOR

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<sup>2</sup> Shropshire Local Development Framework: Adopted Core Strategy (the Core Strategy)