



Costs Decision

Site visit made on 21 November 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2025

Costs application in relation to Appeal Ref: APP/K0235/W/24/3340444 The Royal George, 57 High Street, Stagsden, Bedford MK43 8SG

- 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 Priory House Estates Ltd for a full award of costs against Bedford Borough Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for change of use and alteration of former pub building to create dwelling, construct new dwelling in former car park area.
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Decision

1. The application for a full 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 application is made on both procedural and substantive grounds. The procedural grounds are that the Council failed to determine the application in a timely manner and to give reasons for that failure; that it failed to respond to reasonable requests for information; and that it has not engaged proactively with the applicant. The substantive grounds are that the Council failed to attribute appropriate weight to the submitted Viability Study (VS) and to alterations to the design from previous applications; and that it did not consider whether conditions could overcome its highway-related concerns.
4. The PPG states that if it is clear that the local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. In any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time period, and why permission would not have been granted had the application been determined within the relevant period.
5. The Council was initially upfront about the reasons for the delay in the determination of the application, and an extended timetable for decision-making was agreed. However, the extended timetable was not adhered to. Whilst I recognise the resourcing and workload challenges faced by the Council, it is not acceptable that the reasons for the further delay were not

communicated effectively to the applicant, and this amounts to unreasonable behaviour by the Council.

6. Nonetheless, the Council has set out its position on the appeal scheme with reasoned analysis, which clearly takes account of the VS and the amendments to the design that were made following previous iterations of the development. Moreover, as will be seen from my decision, it would not be appropriate to deal with the highway issues through conditions, because there is uncertainty over the funding, feasibility, and delivery arrangements for the relocation of the existing bus stop. The Council's highway related concerns are relevant to the appeal scheme. Therefore, the Council did not behave inappropriately in raising them, even if they were not identified during the handling of previous applications at the site. That the applicant does not agree with the Council's position on the main issues in the appeal does not make the Council's behaviour unreasonable.
7. The reasons why the Council would not have granted permission for the development are clear, precise, specific and relevant to the proposal. Therefore, had the Council determined the application and the applicant wished to seek a different outcome, an appeal would have been required in any event. Therefore, no unnecessary or wasted cost has been incurred.
8. Overall, whilst the Council has shown some unreasonable behaviour, it has not resulted in unnecessary or wasted expense being incurred during the appeal process. Therefore, an award of costs is not warranted.

E Catchside

INSPECTOR