



Costs Decision

Site visit made on 10 April 2019

by **E Symmons BSc (Hons), MSc**

an Inspector appointed by the Secretary of State

Decision date: 10 June 2019

Costs application in relation to Appeal Ref: APP/H0738/W/19/3220309 Smiths Arms Public House, Carlton Village, Carlton TS21 1EA

- 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 Punch Partnerships (PML) Ltd for a full award of costs against Stockton-on-Tees Borough Council.
 - The appeal was against the refusal of planning permission for retention of the existing Public House, reconfiguration of the existing car parking spaces, the creation of a patio area and beer garden plus 2 x 4-bedroom detached houses to the rear of the Public House.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant contends that the Council has been unreasonable for the following reasons and I will consider each in turn:
 - the Council failed to produce a statement of case;
 - the Council relies on vague and generalised assertions about the proposal's impact which is unsupported by any objective analysis or technical assessment;
 - permission was refused on a planning ground which could have been resolved through a condition.

No Council statement of case was submitted

4. The Council did not submit a statement of case, instead relying upon their submitted Officer Report which they believed fully justified their decision. This was accompanied by the Highway Officer's comments which substantiated the reasons for refusal and expanded on the Officer Report and subsequent Decision Notice. This provided sufficient detail upon which to base the appellant's case and I do not consider that the lack of an appeal statement was unreasonable by the Council or led the applicant to additional expense.

Quality of evidence supporting the Council's decision

5. It is suggested that the Officer Report contains errors which suggest that the Council did not understand the proposal. There are two points raised in support of this assertion. The first relates to the potential desire line resulting from pedestrians leaving the proposed dwellings through the vehicular access rather than the segregated pedestrian route. The appellant refers to a mechanised sliding gate, but the Council did not comment upon this suggestion. I have no details for this proposal before me as the submitted plans, including the most recent version reference 17.2586.100 P8, show two 1.8m high close boarded timber gates and on this basis, I believe the Council's view was justified. The second example relates to the Officer Report's reference to manoeuvring vehicles conflicting with pedestrians within the car park. Although there would not be conflict within the car park itself, there would be potential for conflict on approach to the car park at the side access road where the pedestrian route is not segregated. As such I believe this comment was justified.
6. The Council contended that introduction of a dedicated pedestrian route to the side access road would reduce the road width making it only one way for vehicles. The applicant did provide evidence to contradict this view as part of the planning application process, however in accordance with paragraph 033 of the Planning Guidance on Appeals¹, costs incurred during the application process cannot be recovered within an application for costs. As such I do not consider that the applicant has incurred additional cost within the appeal process.
7. In this case I have noted that the advice from the Highway Officer was inconsistent and altered from that given within their initial response and included a series of comments made over time. This approach may have led to additional expense during the application process, however Highway Officer objection to the proposals were at no time completely removed. As this cost was associated with amendments during determination of the planning application, they are not within the scope of this costs application. I therefore find that a claim for costs is unsubstantiated on these grounds.
8. In conclusion I believe the Officer Report and the technical assessment of the proposals provided by the Highway Officer's comments showed an understanding of the proposed alterations. They stated reasons why the proposals were unacceptable in terms of highway safety and substantiated this with respect to policy. I therefore do not consider that this was unreasonable behaviour or that additional expense has been incurred by the applicant in the appeal process.

A condition could have made the proposal acceptable

9. The applicant claims that the appeal was unnecessary as the proposal complied with the development plan. As outlined above and detailed within my Appeal Decision, there was cause for concern regarding potential harm to highway safety. This was due to the site constraints produced by the need to access the proposed development through a side access road leading to the rear of the public house resulting in potential conflict between pedestrians and vehicles. This could not have been resolved through the use of conditions as it relates to physical site constraints. As such I do not consider that the Council have

¹ Paragraph: 033. Reference ID: 16-033-20140306. Revision date: 06 03 2014.

refused an application which could have been deemed acceptable through a planning condition.

10. Taking into account the matters raised, I find that unreasonable behaviour resulting in unnecessary or wasted expense within the appeal process, has not been demonstrated. The application for costs is refused.

E Symmons

INSPECTOR