

LPA Reference: 2015/1444/P

PINS Reference: APP/X5210/W/16/3153454

MANSFIELD BOWLS CLUB

COUNCIL'S RESPONSE TO COSTS APPLICATION

1. The application by the Appellant for a substantive award of costs against the Local Planning Authority should be refused as such an application does not satisfy the tests laid out in paragraph 049 of the relevant section of the NPPG as the Council's decision to refuse planning permission cannot, on any level, be construed as unreasonable behaviour. The decision to refuse was a decision that was open to the Council to make and it was made in accordance with the development plan policy.

2. Reason for refusal 1 was that:

"The applicant has failed to demonstrate that the existing leisure facility is no longer required, that there is no demand for an alternative leisure use of the site which would be suitable and that therefore the loss of the facility would not undermine the range of services and facilities needed to support local communities, contrary to policy CS10 (Supporting Community Facilities and Services) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP15 (Community and Leisure Uses) of the London Borough of Camden Local Development Framework Development Policies."

3. The relevant part of DP15 states that:

"The Council will protect existing leisure facilities by resisting their loss unless:

- e) adequate alternative facilities are already available in the area, and therefore no shortfall in provision will be created by the loss; or*
- f) the leisure facility is no longer required and it can be demonstrated that there is no demand for*

an alternative leisure use of the site that would be suitable.

4. It is accepted that policy criteria (e) and (f) are alternatives and an applicant need satisfy only one in order to satisfy the policy. However, in this case neither criteria (e) nor (f) were satisfied.
5. Criteria (e) is not satisfied because leisure ‘facilities’ (i.e. land and/or buildings) are not already available in the area. The evidence shows that there are not adequate leisure facilities in the area and if the appeal site is redeveloped there will be a shortfall in the provision of leisure facilities caused by its loss.
6. Criteria (f) is not satisfied because while the bowling facility may no longer be required, the Appellants have not demonstrated that there is no demand for an alternative leisure use of the site that would be suitable.
7. This approach to the interpretation of DP15 is consistent with the correct, objective approach to the interpretation of planning policy set out in Tesco Stores v Dundee City Council [2012] UKSC 13 and is also consistent with the objective of the policy as set out in the supporting test (at DP15, paragraph 15.9) which is that it is ‘*opposed to any reduction in the provision of leisure facilities because of their contribution to our quality of life and to Camden’s cultural character*’. The contrary interpretation suggested by the Appellants would significantly undermine this policy objective.
8. In this context, the first reason for refusal can fairly be read as indicating that the Council was not satisfied that either of the policy criteria were satisfied in this case.
9. The decision by the Council that it was not satisfied that policy DP15 was satisfied in this case was not an unreasonable decision and was one which was plainly open to the Members to reach on the evidence which is available in this case.

10. For the above reasons, the Council's refusal of permission was not unreasonable and the application for a full award of costs must fail.