The Planning Inspectorate

Costs Decision

Site visit made on 31 January 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 February 2017

Costs application in relation to Appeal Ref: APP/U2370/W/16/3161432
4 Rosslyn Avenue, Preesall, Lancashire FY6 0HE

- 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 & Mrs Boone for a full award of costs against Wyre Borough Council.
- The appeal was against the refusal of outline planning permission for residential development of up to 9 dwellings with demolition of existing house to form new access road.

Decision

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

Reasons

2. 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. The PPG states that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal.

3. The basis of the appellant's application for costs is on the grounds that the Council acted unreasonably during the consideration of the planning application by Council Members and which resulted in the decision to refuse planning permission being contrary to the recommendation of officers and in particular the advice provided by external consultees. The appellant contends that, as a consequence of the unreasonable behaviour of the Council and a lack of any technical evidence on which to substantiate the reasons for refusal, an appeal was necessary.

4. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.

5. I consider that the reasons for the refusal of the planning application were relevant to the application and clearly state the relevant policies of the Wyre Borough Local Plan (WBLP) that the proposed development would be in conflict with.

6. Saved Policy SP32 of the WBLP clearly states that development should enjoy satisfactory access and that the traffic associated with the development should

not have any adverse impact on the local highway network. It is clear from the evidence submitted in the appeal that there are justified technical disagreements between the main parties regarding the extent to which visibility splays provided in Manual for Streets should be used, the effect of existing on-street parking on visibility and the impact of the proposed raised junction table.

7. In my view, the substantial technical evidence provided by the Council regarding the impact of the proposed development on highway safety sufficiently substantiates the reason for refusal. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for a contrary view. Although, I found that the proposed development would not have any significant impact on highway safety, this does not imply that the Council Members acted unreasonably in arriving at their conclusion.

8. It is clear from the evidence provided in this appeal and from the observations at my site visit that surface water drainage is both a significant technical issue and a major concern to the local community. Surface water drainage in the locality is dependent on an intricate network of ditches and culverts. There is evidence that localised flooding has occurred in the locality during sustained periods of heavy rainfall, albeit none appear to have occurred on the appeal site itself.

9. Against this background, I find that Council Members were quite entitled to similarly not accept the professional advice of Officers so long as a case could be made for a contrary view. In my view the detailed technical evidence provided by the Council was both robust and clearly related to Saved Policy ENV15 of the WBLP which requires that development should not increase the risk of flooding.

10. There is some dispute between respective technical advisers regarding the adequacy of the proposed surface water drainage system. Although the Environment Agency and the Council's Engineering Services (Drainage) Officer found that the proposed surface water drainage scheme to be an acceptable solution, the subsequent technical evidence provided by the Council sufficiently justifies its reason for refusal. Although, I found that the proposed development would not exacerbate existing local problems or lead to increased flood risk, the technical evidence provided by Council comprehensively supported the reason for refusal. As such, I do not consider that the Council Members acted unreasonably in arriving at their conclusion of the impact of the proposed development on flood risk.

11. Consequently, I do not consider that the Council acted unreasonably in their consideration of this matter at Planning Committee. The views of the Council Members were adequately referenced in the Decision Notice, were relevant to policies in the development plan and substantiated in the technical evidence provided in the appeal.

12. Taking all of these matters into account, I find that the reasons for the refusal of the planning application were complete, precise, specific and relevant to the application. I have found that the Council had reasonable concerns about the impact of the proposed development on highway safety and flood risk which led to the decision to refuse the application. Just because I have found differently from the Council this does not mean to say that the Council's concerns had no

basis. Accordingly, I do not find that the Council failed to properly consider the merits of the scheme and therefore the appeal could not have been avoided.

13. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and having regard to all other matters raised, an award of costs is not justified.

Stephen Normington

INSPECTOR