The Planning Inspectorate

Costs Decision

Site visit made on 5 June 2018

by G P Jones BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2018

Costs application in relation to Appeal Ref: APP/J1860/W/18/3193931 Stanley Road, Malvern, Worcestershire WR14 2BG

- 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 and Mrs John Williams for a full award of costs against Malvern Hills District Council.
- The appeal was against the refusal of planning permission for the construction of one new dwelling.

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may only 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 appellants' case is based on the contention that the Council has behaved unreasonably by providing vague, generalised or inaccurate assertions about the proposal's impact, which are not supported by any objective analysis. Furthermore, the appellants contend that the Council did not notify the appellants at the pre-application stage that the proposal was considered cramped and has not assessed the footprint of other buildings in the locality in relation to their respective plot sizes. In addition, it is alleged that it was unreasonable to raise the issue of access as a reason for refusal only for this to be withdrawn subsequently.

4. The Council's first reason for refusal is based on the design of effect of the proposed building on the character and appearance of the area. I consider that issues of detailed design and impact on the surrounding street scene are, to a degree, subjective matters of planning judgment and I have found in favour of the Council in this regard in my appeal decision.

5. In addition, the Officer's report and the Council's Statement of Case have provided a fairly robust and thorough analysis in regard to the street scene in the locality and the impacts of the proposal on the character and appearance of the area. The Council has adequately justified its position, including assessing differences between the footprint and some design elements of this proposal and the one that was previously allowed at appeal[1], and it has provided

[1] Appeal reference APP/J1860/A/13/2195464

reasons for refusal that are based on the guidance contained within the National Planning Policy Framework and the development plan. Therefore I do not consider that the Council acted unreasonably in refusing permission on these grounds.

6. As regards the matter of the pre-application advice provided by the Council, I note that the e-mail from the Council's Planning Officer, dated 9 December 2016, specifies that the comments are on an informal basis and would seem to indicate that the appellants have not gone through a formal pre-application process. Also, the PPG[2] guides that pre-application advice provided by a local planning authority cannot pre-empt the democratic decision making process or a particular outcome. Consequently, I am not persuaded that the Council has necessarily acted unreasonably in refusing planning consent once a formal planning application was submitted.

7. In regard to the Council's second reason for refusal, it withdrew its objection based on new access details that were submitted by the appellants as part of the appeal. In assessing this further information and then withdrawing its reason for refusal in this regard, it is my view that the Council has acted entirely reasonably.

Conclusion

8. In conclusion, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason an award of costs is not justified.

GP Jones

INSPECTOR

[2] Paragraph: 011 Reference ID: 20-011-20140306