



Costs Decision

Site visit made on 23 July 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2019

Costs application in relation to Appeal Ref: APP/R0335/W/19/3225337 Holly Cottage, London Road, Popeswood, Binfield, Bracknell, Berkshire RG42 4AA

- 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 CHOICE Ltd for a partial award of costs against Bracknell Forest Borough Council.
 - The appeal was against the refusal of planning permission for development described as 'demolition of existing dwelling (use class A3) and redevelopment of site for Residential Care Home (Use Class C2) with associated access, parking and landscaping'.
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Decision

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

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The Council has withdrawn its second and third reasons for refusing planning permission and the applicant has subsequently confirmed they no longer wish to pursue an award of costs in these areas. The Council's first reason for refusal therefore, which implies detriment to the character and appearance of the area and to the living conditions of adjoining occupiers, becomes the primary focus of this decision.
4. The applicant considers that the Council has prevented development which should clearly have been permitted. They also consider that the Council has made vague, generalised or inaccurate assertions about the impact of the proposal that are unsupported by objective analysis. I first note that the Council's Planning Committee was entitled to come to a different decision to that recommended to them by its officers. This would not be unreasonable, provided that the conclusions drawn were properly substantiated.
5. In terms of the proposal's effect upon the character and appearance of the area, it is apparent that the proposed facility would be notably larger than the bungalow it would replace. The proposal would add an additional storey and would occupy a footprint of greater area. Indeed, the proposed care home, when compared to the existing bungalow, would be sited closer to all boundaries of the site and would appear as a notable addition to the street scene covering a substantial proportion of the site's width.

6. Notwithstanding the mixed character and appearance of the site's surroundings, the predominance of other 2 storey buildings in the locality and the conclusions reached with respect to the planning appeal to which this costs application relates, I am content that the Council acted reasonably in coming to the conclusion that it did in a character and appearance context. This was a matter of planning judgement. Whilst concerns have been raised that the Council was not objective in its analysis, I note that the reason for refusal refers specifically to the proposed building's bulk and mass and to relevant development plan policies.
7. Whilst the alleged detrimental effect upon the living conditions of adjoining occupiers is referenced in somewhat generic terms within the reason for refusal given, the Council's appeal statement is helpful in clarifying their position in this regard. Indeed, I accept that the proposal would likely lead to increased vehicular movements and to the site's external areas being more intensively used when compared to how such areas would realistically be used as part of a single residential plot. Whilst, with respect to the planning appeal, it was concluded that this would not lead to harm being caused, this was again a matter of planning judgement. A relevant development plan policy was quoted in the associated refusal reason and I am satisfied that the Council behaved reasonably in alleging that the proposal could adversely affect neighbouring living conditions.
8. I therefore conclude that, for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. Having had regard to all other matters raised, an award of costs is therefore not justified.

Andrew Smith

INSPECTOR