The Planning Inspectorate

Costs Decisions

Site visit made on 6 August 2019

by Kate Mansell BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Costs application in relation to Appeal Ref: APP/N2345/W/19/3229211
91 Garstang Road, Preston PR1 1LD

- 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 Mrs Suzanne Melia on behalf of The Melia Partnership for a full award of costs against Preston City Council.
- The appeal was against the refusal of the Council to grant planning permission for the erection of a 3.5 storey building to provide 11 no. apartments.

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- 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 Preston City Council for a full award of costs against Mrs Suzanne Melia on behalf of The Melia Partnership.
- The appeal was against the refusal of the Council to grant planning permission for the erection of a 3.5 storey building to provide 11 no. apartments.

Decisions

1. The application for a full award of costs by Mrs Suzanne Melia on behalf of The Melia Partnership against Preston City Council is refused.

2. The application for a full award of costs by Preston City Council against Mrs Suzanne Melia on behalf of The Melia Partnership is refused.

Reasons

3. 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 and wasted expense in the appeal process.

Application for an award of costs by the applicant

4. The applicant's substantive claim for full costs is principally on the basis that the Council have acted unreasonably in their determination of the proposal. The applicant maintains that there are inaccurate assertions within the Officer Report, which impacted upon the assessment of the proposals effect, that some matters could have been dealt with via a suitably worded condition and that the Council have not decided similar cases in a consistent manner.

5. In determining the appeal, I have concluded that it should be dismissed having regard to all the available evidence. In doing so, it will be seen that I have

acknowledged where the parties do not agree on particular aspects of the appeal proposal.

6. In relation to how the scale and context of the proposal are described and the site layout, I am satisfied that the Officer Report set out an assessment of the scheme as a whole. Equally, in its consideration of living conditions, it acknowledged the angled relationship to the adjoining block at Wove Court. Furthermore, in its assessment of heritage assets, including Conservation Area views, the planning decision was a matter of judgement and the Council supported it with reasons. It also set out to acknowledge some of the benefits of the scheme, not least in being an accessible location.

7. Even if the Council had agreed with the applicant on these matters, it will be seen from my decision that overall, I agree with the Council that there was a sufficient basis for refusing planning permission, related to the harm caused by it. Whilst there is some overlap within the reasons for refusal, I have found that the Council had reasonable concerns about the proposed development's impact, which justified its decision. In this respect, I do not find that the Council behaved unreasonably.

8. The applicant considers that the Council also acted unreasonably as it could have imposed conditions that would enable the proposed development to go ahead. I appreciate that the applicant's Statement of Case identifies some issues that could have been dealt with via a suitably worded condition, including, but not limited to, entrance/exit arrangements, tree protection measures and ground contamination/flood risk. However, these were not matters specifically cited in the Council's reason for refusal.

9. Even if a revised position for bin/cycle storage could have been addressed in this way, the applicant has not put forward any conditions that would overcome other matters within the Council's reasons for refusal, including its effect on the character and appearance of the area, the Moor Park Conservation Area and the Grade II* Listed Moor Park or the living conditions of existing occupiers and future occupants. In light of the harm that I have identified, I am satisfied that the appeal could not have been avoided.

10. Turning to the consistency of decision making, my attention has been drawn to an example of a development approved by the Council at 6 Winckley Square in September 2018[1]. However, Winckley Square lies within a more densely developed city centre location compared to the more suburban and lower density setting of the appeal site. Consequently, I do not find it to be directly comparable and the Council has not been inconsistent in its decision making.

11. I appreciate that the decision of the Council will have been a disappointment to the applicant, and that costs have been incurred as a result of pursuing the appeal. However, the applicant exercised a right of appeal and planning permission was not unjustifiably withheld, given the harm that I have found. The parties are expected to meet their own costs in the appeal process, and I find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

[1] Council Ref: 06/2018/0469

Application for an award of costs by the Council

12. The Council consider that the applicant has behaved unreasonably in pursuing an appeal, which has resulted in unnecessary expense to the Council.

13. It contends that it sought to address the matters disputed between the parties within its response to the applicant's formal complaint in February/March 2019 and subsequently, succinctly set out its case on all matters within its appeal statement.

14. It can been seen from my decision that even if the Council had agreed with the applicant on these matters, I have found that the Council had reasonable concerns about the impact of the proposed development, which justified its decision to refuse it. Nevertheless, the applicant reasonably exercised a right of appeal and in doing so, it provided adequate supporting evidence. I am therefore satisfied that it was exercised in a reasonable manner.

15. The Council also consider that the applicant behaved unreasonably by pursuing the appeal and subsequently submitting a revised application for development. I appreciate that the applicant did not choose to engage in pre-application discussions prior to submitting the revised proposal. Whilst it is encouraged by the PPG, that is ultimately a matter for the applicant.

16. Furthermore, in its rebuttal, the applicant records the lack of certainty in respect of timescales for processing and determining appeals. There is also no certitude that the revised application will be granted planning permission. It was not, therefore, unreasonable for the applicant to submit it with the appeal running concurrently.

17. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Kate Mansell

INSPECTOR