The Planning Inspectorate

Costs Decision

Site visit made on 30 September 2019

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2019

Costs application in relation to Appeal Ref: APP/X2410/W/19/3232987
59 Ashleigh Drive, Loughborough LE11 3HN

- 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 Messers Rafaelle Roberto Russo and Roy France for a full award of costs against Charnwood Borough Council.
- The appeal was against the refusal of planning permission for two storey extensions and alterations to dwelling and conversion into 5 studio flats (Class C3).

Decision

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

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The application needs to clearly demonstrate that this is the case, as parties in planning appeals normally meet their own expenses.

3. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes both procedural matters and substantive matters, such as preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other considerations, failure to produce evidence to substantiate the reason for refusal on appeal, and vague and generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. The applicant has also raised concerns that planning permission has been refused on grounds capable of being dealt with by conditions. The application for costs relates to each of these matters listed as examples.

4. The Council's decision notice includes a single reason for refusal, which I consider relates to three main issues of dispute - the effect on the character and appearance of the area (including the living conditions of occupiers of neighbouring properties), whether the proposal would provide for a satisfactory living environment for future residents with particular regard to Flat 5, and the effect on local parking arrangements (including highway safety). In those respects, the reason for refusal set out in the decision notice is specific to the application and the harm identified by the Council in terms of conflict with a policy of the Charnwood Local Plan 2011 - 2018 Core Strategy (CS), adopted November 2015, saved policies of the Borough of Charnwood Local Plan 1991-

2006 (LP), adopted January 2004, and the National Planning Policy Framework (the Framework).

5. It will be seen from my appeal decision that I concluded that the proposed development would be harmful for reasons and conflict with policies of the CS and LP insofar as they are relevant to the first and second main issues and found that the other material considerations in this case did not outweigh the harm. The policies are consistent with the Framework, including its design objectives that seek to achieve appropriate densities, well-designed places and seek high standards of amenity for existing and future users.

6. In reaching the above findings, I found no specific harm in terms of the external alterations and the appearance of the property itself. However, such a view reflects a matter of judgement on a subjective issue and therefore, it is not unreasonable for the Council to have reached a different view when making its decision. Furthermore, it is reasonable that although the Council's reason for refusal did not specifically refer to matters of noise and disturbance for occupiers of neighbouring properties, such matters fall within material considerations relevant to the character of the street and surrounding properties which the Council found the proposal to be *'at odds with'*. I, therefore, find that the Council did not behave unreasonably in that respect when explaining the reason for refusal within the appeal evidence given that such matters are also relevant to the development plan policies to which conflict was identified.

7. It follows from the above and the conclusions in my appeal decision, that the Council's evidence substantiated the elements of the reason for refusal relating to the first two main issues I identified and in doing so, the Members of the Council's Planning Committee reasonably took a different view to those of their own officers when reaching a conclusion on subjective matters. In that respect, the applicant has expressed concerns about the approach of the Council when making its decision. However, to my mind, the decision was reasonably made on the basis of policies and material considerations, including the existence of a previous appeal decision relating to a proposed house in multiple occupation elsewhere in the same street, insofar as such matters were relevant to the assessment of the proposal subject of the application. Consequently, I cannot find that the Council prevented or delayed development which should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations. In addition, the harm and conflict with the development plan and the Framework that I identified in my appeal decision would not be capable of being dealt with by conditions.

8. Turning to the third main issue I identified, I found no harm in terms of local parking arrangements, including highway safety. In that respect, it will be seen from my appeal decision that I recognise that displacement of existing on-street parking close to the site could contribute to matters of convenience for occupiers of existing properties in terms of their living conditions. However, on balance, as additional on-street demand could be accommodated safely elsewhere to my mind it would not of itself justify withholding planning permission. Nonetheless, such a view reflects a matter of judgement on circumstances where reduced off street parking provision relative to maximum standards may be acceptable based upon the evidence before me and my own observations. Consequently, I cannot find that the Members of the Council's

Planning Committee behaved unreasonably in reaching a different view on such matters.

9. The applicant has also raised concerns that the Council did not identify the specific policies of the Framework to which the proposal would not accord. However, I am mindful that the Framework is a material consideration that should be read as a whole and therefore, it is not unreasonable that the Council identified a general conflict with the Framework in its reason for refusal. In any case, the Council's evidence to the appeal identified what it considered to be the relevant paragraphs of the Framework and substantiated the related elements of its reason for refusal.

10. Taking all of the above into account, I conclude that it has not been demonstrated that the Council behaved unreasonably or that it caused unnecessary or wasted expense for the applicant in the appeal process as a result.

Conclusion

11. For the reasons given above, I determine that the costs application should fail and no award is made.

Gareth Wildgoose

INSPECTOR