The Planning Inspectorate

Costs Decision

Hearing held and site visit made on 29 January 2020

by Brendan Lyons BArch MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 27 March 2020

Costs application in relation to Appeal Ref: APP/A3655/W/19/3229047
9-13 Poole Road and sections of Poole Road, Goldsworth Road and Church Street West, Woking, Surrey GU21 6DY

- 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 Thameswey Developments Limited for a full award of costs against Woking Borough Council.
- The hearing was in connection with an appeal against the refusal of planning permission for: Demolition of existing buildings and erection of mixed-use development ranging in height to 17 storeys, comprising of 2,275 sq.m GIA energy centre (flexible Sui Generis/Class B1), 679 sq.m co-working space (Sui Generis/Class B1), 247 student and co-living rooms (Sui Generis) with shared kitchens and associated communal space totalling 714 sq.m and 312 sq.m rooftop amenity space, in addition to associated landscaping, waste and ancillary spaces. Installation of 3 No. thermal store vessels and ancillary infrastructure structures including above ground pipework. Installation of subterranean district heating main and private wire electricity cables beneath Poole Road, Goldsworth Road and Church Street West.

Decision

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

The submissions for the parties

2. The appellants' written application for a full award of costs was submitted at the Hearing. The Council provided a written response to the application, to which the appellants replied.

Reasons

3. The Government's Planning Practice Guidance ('PPG') on Appeals 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 explains that costs can be sought on both procedural and substantive grounds, and provides examples of potentially unreasonable behaviour that might give rise to an award of each type. In this case, the appellants seek a full award on substantive grounds.

4. The planning application had been recommended for approval by Council officers but refused by elected members. The first reason for refusal was on the grounds of the proposed excessive bulk and mass and adverse effect on the character of the area. The appellants now claim that the Council has failed to substantiate this reason.

5. The Council's appeal statement on this issue was relatively brief, but explains the main points of its concern. These were expanded upon in more detail at the Hearing. It was clear that the policy position did not provide the support sought by the appellants' interpretation and that impacts on character were a matter of judgement. The appeal decision upholds the Council's arguments. The case was put by experienced town planners, part of whose professional skill set includes the appraisal of proposed development. It was not necessary for the Council to produce evidence by an architectural expert to support its case. The Council's argument was not unreasonable.

6. The second reason for refusal related to the lack of on-site parking for the residential component of the proposed development, and a concern that displaced parking would result in adverse impacts on surrounding streets. The appellants claim that there is policy support for car-free development and that the Council has failed to substantiate the reason for refusal.

7. The Council's statement on this issue was extremely brief. It does not dispute that the proposal would involve *sui generis* uses requiring an individual assessment but does outline one potential interpretation of the policy set out in the Parking SPD. At the Hearing, the Council expanded greatly on its position and made detailed submissions on a number of relevant aspects which showed that the justification required for zero car parking at the appeal site was not straightforward and was open to considerable dispute. The appellants acknowledged that TRICS data was not definitive. The examples provided by the appellants were from a variety of locations, not directly comparable with the appeal site or with the appeal proposal, which was for an unspecified mix of student housing and co-living. It was not necessary for the Council to produce counter-examples. Although the appeal decision ultimately accepted the appellants' position on this matter, the Council's case was not unreasonable.

8. Therefore, I find that on both main issues the Council's behaviour has not been shown to be unreasonable and that the appellants did not incur unnecessary expense in pursuing the appeal. I conclude that an award of costs would not be justified.

Brendan Lyons

INSPECTOR