



Costs Decision

Site visit made on 20 January 2020

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 29th April 2020

Costs application in relation to Appeal Ref: APP/C2708/W/19/3237080 Rockwood House, Park Wood Close, Skipton BD23 1QW

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Firth Developments Ltd for a full award of costs against Craven District Council.
 - The appeal was against the refusal of planning permission for construct 6 no. detached dwellings with associated vehicular access and landscaping.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) 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 application centres on the applicant's claim that the Council: (a) made vague, generalised and inaccurate assertions about the proposal's impact, which were not supported by objective analysis and evidence; (b) failed to determine similar cases consistently; and (c) failed to assess the proposal against the correct development plan policies.
4. PPG indicates that local planning authorities will be at risk of an award being made against them if they make vague, generalised or inaccurate assertions about a proposal's impact, and act inconsistently or contrary to policy.
5. Regarding matters (a) and (b), in the reason for refusal the Council did not specify harm which it considered would arise from 'overdevelopment' other than overbearing effect on neighbouring properties. As such, the inclusion of 'overdevelopment' in the reason for refusal has not significantly altered the core issue of the case, which is living conditions of neighbouring occupiers.
6. Paragraph 2.2 of the Council's Costs Statement indicates that Members of the Planning Committee discussed the changes to the scheme, compared to the previous appeal decision¹, taking into account the effect of the proposed density of development on separation gaps between properties.

¹ Appeal Ref: APP/C2708/W/19/3220508.

7. Given the focus on the effect on outlook from No 9 Park Wood Close in the previous appeal decision, it would have been helpful if the Council had articulated more clearly, at the time of making its decision, how it considered the changes in the appeal proposal, compared to the previously dismissed scheme, were deficient. Nevertheless, while it will be clear from my decision that I do not agree with the Council's conclusion about the impact of the proposal, in this case the decision is one which is a matter of judgement. Accordingly, Council Members were entitled to reach the view that the proposal did not sufficiently address previous concerns, within the context that the previous appeal decision referred to a combination of factors, and not solely the height and scale of the proposed dwelling on Plot 2.
8. I see evidence in the Planning Officer's report² that the Council correctly described and understood the change in proposed height and size of the dwellings on Plots 1 and 2, compared to the previous scheme.
9. Given the previous appeal decision's conclusive focus solely on one dwelling and the comprehensive analysis of the proposal in the Planning Officer's report, the lack of identification of specific properties of concern in the reason for refusal, was unreasonably vague. Nevertheless, given the concern about the effect on No 9 Park Wood Close, I have no certainty that, had the Council been more specific in the reason for refusal, an appeal would have been avoided.
10. In respect of matter (c), the applicant considers that the Council failed to take proper account of Craven Local Plan (2019) (LP) policies in respect of windfall sites' contribution to housing supply, and consequently underestimated the planning benefit of the proposed scheme. However, at the time of the Council's decision the LP policies were not adopted and therefore carried limited weight. In any case, Policies SP3 and SP4 of the LP together allow for account to be taken of other policies and objectives, and the planning balance is a matter of judgement. As such, I cannot conclude that absence of reference to Policies SP3 and SP4 of the LP significantly altered the thrust of the Council's decision.
11. To conclude, I find as follows. Regarding matter (a) the lack of identification in the reason for refusal of specific properties which the Council considered would be harmed, was unreasonably vague. In respect of matter (b), inclusion of 'overdevelopment' in the reason for refusal did not substantively lead to an inconsistent approach by the Council. In respect of matter (c) the Council did not decisively fail to take due account of emergent LP policies. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case in respect of matters (b) and (c). Whilst I find that the Council has acted unreasonably, partially in respect of matter (a) - through lack of identification of specific properties in the reason for refusal - there is insufficient evidence to make a clear finding on whether or not the applicant was consequently put to unnecessary or wasted expense.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the application for costs fails.

William Cooper INSPECTOR

² Case Officer's Report to Planning Committee, 11th March 2019.