



Costs Decision

Site visit made on 20 May 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2020

Costs application in relation to Appeal Ref: APP/T0355/W/19/3242038 Land adjacent to 33A, The Crescent, Maidenhead SL6 6AG

- 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 Churchgate Premier Homes for a full award of costs against the Royal Borough of Windsor and Maidenhead.
 - The appeal was against the refusal of planning permission for nine apartments with associated landscaping, parking and access.
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Decision

1. The application for the 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 applicant's first ground in their Costs submission, contends that the Council incorrectly assessed the character of the appeal site against its own Townscape Assessment by considering it to be more aligned with the 'Leafy Residential Suburbs' character area. I disagreed with the Council on this point in my decision letter. However, their appraisal of the site clearly acknowledges that the street contains some elements of the 'Victorian and Edwardian Suburbs' area. They also recognise that The Crescent has a scale and density of development that is mixed. Whilst there is a difference of opinion between the main parties in how the site has been characterised in respect of the Townscape Assessment, the Council has nevertheless provided an objective analysis of the characteristics of the area and the proposal's impact, and I do not consider that this amounts to unreasonable behaviour. Ultimately, in any event I found that this matter did not have a fundamental bearing on my decision.
4. In its second ground the applicant considers that the Council acted unreasonably in judging the development as an incongruous, cramped development. The appellant's statement provided an objective analysis of the proposal's built footprint relative to the area of the appeal site and considered that it would not amount to a cramped or overdeveloped layout. The Council applied a different judgement in this regard, noting the proximity of trees, including their crowns and root protection areas, and the scale and height of

the building relative to the site boundaries. The Council's position was supported by adequate reasoning having regard to a number of site variables and also the provisions of the development plan. Therefore, in my view, coming to a different conclusion on this matter did not amount to unreasonable behaviour.

5. With regard to the third ground, I acknowledge that the appellant was frustrated that more time should have been given for the Council's Highways Team to respond before the Council issued its decision. Yet, notwithstanding my conclusions on the highway safety main issue, the proposed new access failed, in the Council's view, to comply with the guidance on distances from road junctions. Moreover, they had concerns that the visibility splays annotated on the revised plans were incorrectly marked. I consider that these were valid concerns from a highway safety perspective and the appellant had the opportunity to consider the highways comments in its appeal submissions. Consequently, the Council were not unreasonable in including these in their reasons for refusal.
6. In relation to the appellant's final ground, I note that the Council considers that the presumption in favour of sustainable development should not apply in this case. However, as I have stated in my decision letter, the Council were incorrect in thinking that the appeal site related to a 'habitat site' in accordance with footnote 6 of the Framework. Nevertheless, despite not following the correct approach this would not have changed my assessment in applying the presumption in favour of sustainable development and therefore dismissing the appeal.
7. The Council's incorrect interpretation of the Framework has led the appellant to raise the matter in their submissions. However, based on the evidence before me it has not been demonstrated that by addressing the matter in their submissions that there was any wasted expense in doing so. In any event, given the Council's objections to the scheme, it would appear unlikely that they would have reached a different decision and therefore that an appeal would have been avoided.
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. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R. E. Jones

INSPECTOR