Costs Decision

Site visit made on 7 July 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd August 2020

Costs application in relation to Appeal Ref: APP/G4240/W/20/3251412
Land Adjacent to Devon House, Currier Lane, Ashton-Under-Lyne, Tameside OL6 6TE

- 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 Mr A Savage of Drake Hall Limited for a full award of costs against Tameside Metropolitan Borough Council.
- The appeal was against the refusal of planning permission for a proposal described as *"development of 1no. semi-detached properties (2no. units)"*.

Decision

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

Reasons

2. Planning Practice Guidance 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.

3. The appellant submits that the Council has acted unreasonably in that it has provided vague, generalised and inaccurate assertions about the proposal's impact, has not determined similar cases in a consistent manner, and has failed to co-operate with the appellant to resolve outstanding differences. Moreover, it is contended that permission was refused on a planning ground capable of being dealt with by condition.

4. The first reason for refusal relates to the Protected Green Space designation. In this regard, the Council pointed to a clear conflict with UDP Policy OL4 and argued that the site contributes to a valued sense of openness along the street. Whilst I came to a different view regarding the site's contribution to the character of the area, the Council provided a reasoned analysis in support of its position. It did not act unreasonably in this regard.

5. It is also asserted that the Council has not determined similar proposals on Protected Green Space sites in a consistent manner. In this regard, 3 planning approvals have been drawn to my attention[1]. However, in each case, site-specific reasons are provided for granting permission in relation to UDP Policy OL4. Moreover, studies regarding the supply of local playing pitches are cited in the justification for granting 2 of those approvals. Accordingly, it does not appear that the Council acted inconsistently in relation to these cases. The

[1] 19/00264/FUL, 18/00119/FUL, and 13/00365/FUL

Council also highlighted a recent appeal Decision[2] that found Policy OL4 to be generally consistent with Paragraphs 97, 100 and 127 of the Framework.

6. In terms of the second reason for refusal relating to highway safety, I do not consider that this matter is capable of being dealt with by condition for the reasons set out in my Decision.

7. The third reason for refusal relates to the effect of the development on protected trees. This is supported by an analysis of the effect of these trees on the proposed dwellings and garden areas, which would be likely to lead to pressure to remove or lop the trees. As set out in my Decision, this is a valid planning consideration, and the Council did not act unreasonably in refusing permission on these grounds.

8. Finally, it is asserted that the Council failed to co-operate with the appellant to resolve outstanding differences. Whilst I do not have the full details of all email exchanges and discussions that took place, from the information before me it appears that the Council entered into dialogue with the appellant on a number of matters. It is also unclear whether further dialogue would have overcome the Council's objections so as to avoid the appeal. With regard to the production of a supply and demand study relating to public open space, this is clearly set out as one of the exception criteria in Policy OL4. In my view, and based on the information before me, I do not consider that the Council acted unreasonably in this regard.

9. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Thomas Hatfield

INSPECTOR

[2] APP/G4240/W/18/3216380