
Costs Decision

Site visit made on 6 July 2020

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th August 2020

Costs application in relation to Appeal Ref: APP/M0655/W/20/3248314 99 Greystone Road, Penketh, Warrington WA5 2DS

- 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 Ms Niki Stockton (Warrington Housing Association) for a full award of costs against Warrington Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of former Penketh Tavern (D2) and construction of three storey, 30 no. one and two bedroom apartments for over 55 year olds.
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Decision

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

Reasons

2. The *Planning Practice Guide* (PPG) advises that parties will normally be expected to meet their own costs in relation to appeals, and that costs may only be awarded against a party who has acted unreasonably, and thereby caused the party applying for costs to incur unnecessary, or wasted, expense in the appeal process.
3. The application for an award of costs is made on substantive grounds. It is highlighted that the Committee of the Council determining the application decided not to accept the recommendations of its Officers to grant permission. It is argued that members have prevented and delayed development which should clearly be permitted having regard to the development plan, national policy and any other material considerations. The applicant also claims that the Council has failed to substantiate the reason for refusal on appeal and has relied on vague, generalised and inaccurate assertions about the proposal's impact, which are unsupported by objective analysis. The PPG indicates that, in such circumstances, costs may be awarded against an authority.
4. The applicant has also raised concerns regarding the consideration of the application at the Committee and how the reasons for refusal were reached. The details regarding this are not before me at this appeal and these are matters that would need to be taken up with the Council in the first instance.
5. Whilst the Committee of the Council responsible for determining planning applications is not required to accept the recommendations of its Officers, in circumstances where the professional advice of Officers is not followed, it is reasonable to expect the authority to be able to produce relevant evidence on appeal to support the decision.

6. The application had 3 reasons for refusal. Two of these relate to the impact the proposal would have on highway safety and the other to its impact on the living conditions of nearby residents. The reasons for refusal clearly set out the development plan policy to which the Council considered the scheme would be contrary.
7. In terms of highway safety, the reasons for refusal relate to the access to the development and the parking provision. The Officer's report highlights that the level of parking provided is below that required by the Council's parking standards, but that Officer's considered that the use of a permit system for the car park would be sufficient to reduce the amount of parking needed. Combined with a Traffic Regulation Order to restrict parking in the vicinity, the scheme was therefore considered acceptable. However, representations from local residents highlighted existing issues with parking in the area, and combined with local knowledge, I do not consider it is unreasonable for members to give different weight to the potential for harm in this regard than the Officer's had in reaching their recommendation for approval.
8. In relation to the new access the Officer's report highlights that whilst the visibility splays would be below those required for a 30mph road, they are based on actual vehicle speeds and so Officers considered they were acceptable. Nevertheless, given the concerns of members about the potential for the development to result in on-street parking in the area and the impact that this could have on visibility, the potential for visitors to the site to utilise the wrong access, and matters raised by local residents in their representations, I do not consider it unreasonable for the members to come to a different conclusion in this regard to their Officer's.
9. The Council's appeal statement provides reasoning for why it considers the proposal would be detrimental in regard to highway safety. For instance, it is supported by a technical note which considers parking in schemes for over-55 year olds in detail. It also highlights the lack of control over parking by visitors and the impact this could have on visibility and highway safety. Whilst the applicant may not agree with these conclusions, it does not mean the Council have acted unreasonably.
10. As detailed in my appeal decision, I have found that the proposal would be acceptable in terms of its impact on the living conditions of existing occupiers. However, I recognise that in terms of living conditions, consideration of planning applications and appeals can involve matters that are often finely balanced and are primarily a matter of judgement.
11. I consider the Council, in its appeal statement, has substantiated its reasoning for why it considers the proposal would be detrimental in this regard. For example, it outlines concerns that the height and mass of the built form on the site would increase significantly and that it would result in a much longer built form along the common boundary. In addition, the reasoning given is specific to the site and not vague or generalised assertions. Representations from surrounding occupiers, emphasise the view that the development would have an adverse impact on their living conditions. Whilst the applicant may not agree with the Council's conclusion in this respect, and I have come to a different conclusion in this regard, this does not mean that the Council have behaved unreasonably.

12. In conclusion, although in this case I have found against the Council, I am satisfied that the Council has met its obligation to give proper consideration to the planning application and has not acted unreasonably in coming to a different conclusion.
13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus an award of costs is not justified.

Alison Partington

INSPECTOR