



Costs Decision

Site visit made on 8 September 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020

Costs application in relation to Appeal Ref: APP/W4223/W/3248687 Land to the side of 264 Block Lane, Chadderton, Oldham OL9 7QB

- 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 Paul Carr for a full award of costs against Oldham Metropolitan Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for a new dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. Paragraph 049 of the PPG states that examples of unreasonable behaviour by local planning authorities include making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, or not determining similar cases in a consistent manner. There are essentially two specific elements to the applicant's claim.
4. The first element is that the planning application was refused on highway safety grounds in the face of technical evidence which (in the applicant's view) demonstrated that there would be no unacceptable impacts. The applicant argues that the provision of visibility splays had been addressed in pre-application consultations, and thus the Council's objections on this matter did not stand up to objective analysis, and the Council's concerns about the impact on highway safety arising from the close proximity of the proposed site access to a bus stop were not supported by factual evidence.
5. Prior to submission the applicant and his consultants had discussions and a site meeting with various parties including a traffic engineer from Unity Partnership (the Council's traffic and network management team) to discuss approaches to dealing with visibility splays and the relocation or removal of the bus shelter next to the appeal site. On the back of this, I can understand his frustration that the approach which in his view had been 'agreed' was not considered acceptable in planning terms by the Council's highways officer consulted on the application, which was therefore refused. I note that the meetings and other

communication prior to the submission of the planning application were not 'formal' pre-application meetings with representation from the Council's planning service. However, even if they had been carried out as such, the PPG is clear that this would not 'pre-empt the democratic decision making process or a particular outcome, in the event that a formal planning application is made'¹.

6. For reasons set out in my main decision, on the balance of evidence before me I found that the proposed development would not have an unacceptable impact on highway safety. However, the reason for refusal in respect of both visibility and the proximity of the bus stop was based on a reasoned professional judgement and further substantiated in the Council's appeal statement. That I ultimately reached a different conclusion to the Council on this matter is not in itself an indication that their reason for refusal was inaccurate or unsupported.
7. The second element of the claim is that having previously allowed a driveway and dropped crossing to be formed for 264 Block Lane, immediately next to the appeal site and the adjoining bus stop, the Council had not determined similar cases in a consistent manner. The Council pointed out that the most recent grant of planning permission in respect of No 284 was in 1989. There is no evidence whatsoever before me on the policies against which the previous application at No 284 was determined, nor on the highway conditions prevailing at the time that decision was reached or any other changes in circumstances in the intervening period. Given this I do not consider that the Council reaching different decisions more than 30 years apart, even on apparently similar elements of development proposals on adjoining sites, can be said to amount to inconsistent behaviour.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

M Cryan

Inspector

¹ Planning Practice Guidance Paragraph: 011 Reference ID: 20-011-20140306