



Costs Decision

Site visit made on 9 March 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2021

Costs application in relation to Appeal Ref: APP/U4610/W/20/3264382 Aylesford Intermediate Care Centre, Aylesford Street, Coventry CV1 5HJ

- 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 Mahesh Patel of Minster Care Group for a full award of costs against Coventry City Council.
 - The appeal was against the refusal of planning permission for residential development.
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Decision

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

Reasons

2. Irrespective of the outcome of an appeal, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, in either a procedural or substantive way, and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the PPG sets out the examples of unreasonable behaviour by local planning authorities which includes preventing or delaying development which should clearly be permitted and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The appellant contends that the Council has acted unreasonably by preventing a development which should have been permitted; failure to substantiate the reasons for refusal; making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis; refusing permission on a ground capable of being dealt with by conditions; persisting to object to an element of a scheme which an Inspector has previously indicated as acceptable; not determining similar cases in a consistent manner; failing to grant a further planning permission for a scheme that is subject to an extant or recently expired permission and un-operative behaviour.
5. I acknowledge that the proposed development has been submitted in outline form with all matters reserved save for access and there would be scope to amend it at reserved matters stage. Nevertheless, the Council needs to be assured that the proposed development would be capable of being advanced at the reserved matters stage. The Council had limited information upon which to base its consideration as to whether the proposed development could be

- accommodated having regard to the character and appearance of the area, the living conditions of surrounding and prospective residents and highway safety.
6. As set out in my decision, it was not an inaccurate assertion of the potential impact of the proposed development in respect of providing satisfactory living conditions for future occupants and highway impact. In my view these could not be overcome through the imposition of conditions. Therefore, it was valid for the Council to have concerns regarding these issues and as such in my view this does not constitute unreasonable behaviour.
 7. I acknowledge that there is an existing planning permission for a student accommodation development on the site. However, this is materially different from the scheme before me. Every application and appeal is considered on the individual merits of the case and based on the information before me there is no compelling evidence to indicate that the Council has ignored this scheme, the findings of the previous Inspector or that they have been inconsistent in its decision-making process.
 8. In respect of the Council's second reason for refusal I note that the Council sought the views of the Local Highway Authority. Given the potential size of the development, it was not unreasonable that these views be considered relevant to the assessment of the scheme. Consequently, the Council acted reasonably in basing their decision on the information available to them including the advice of their consultees and have evidenced the reasons for their decision.
 9. Irrespective of whether a noise assessment was submitted as part of the application the failure by the Council to request an assessment and not disclosing comments from the Environmental Health Officer, in my view, constitutes a lack of co-operation. However, I am satisfied that no unnecessary or wasted expense was incurred in the appeal process as a result of these actions.
 10. In respect of the third reason for refusal and the effect of the proposed development on the living conditions of nearby and future occupiers in respect of noise the decision is one which is a matter of planning judgement. Furthermore, the decision notice clearly details the reasons for refusal.
 11. The Council's fourth reason for refusal relates to the absence of a planning obligation in respect of affordable housing, health and education. It is true that a completed obligation was not before the Council at the time they determined the planning application.
 12. Whilst the Council did not request Heads of Terms or a completed planning obligation, they could not be satisfied the impacts in each respect could be made acceptable as set out in their case. Having regard to the evidence before me I am not persuaded that the Council's actions were unreasonable.
 13. It does not seem to me that the applicant had been put to unnecessary or wasted expense in responding to the Council's reasons for refusal in this regard since the work would have been required to be undertaken had the matter been dealt with during the life of the planning application.
 14. I have found that the Council had reasonable concerns about the impact of the proposed development, as seen from my decision, which justified its decision. Furthermore, the reasons for refusal set out in the decision notice are complete, precise, specific and relevant to the application. It also clearly states

the policies of the Coventry Local Plan that the proposal would be in conflict with. The Council has substantiated its position at appeal rather than making vague, generalised or inaccurate assertions. I am satisfied that no unnecessary or wasted expense was incurred in the appeal process as the appeal was necessary.

Conclusion

15. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason and having had regard to all other matters, an award of costs is not justified.

B Thandi

INSPECTOR