The Planning Inspectorate

Costs Decision

Site visit made on 2 February 2021

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2021

Costs application in relation to Appeal Ref: APP/J2210/W/20/3251948
Canterbury Student Manor, Parham Road, Canterbury CT1 1GA

- 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 Graduate Two Ltd for a full award of costs against Canterbury City Council.
- The appeal was against the refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted. The application sought planning permission for the erection of five blocks of student accommodation (297 beds) comprising 60 cluster flats and 65 studio apartments with communal facilities, parking and cycle storage.

Decision

1. The application for a full award of costs is allowed in the terms set out below.

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. The applicant claims that the Council acted unreasonably as its reason for refusing the application, which relates to whether the proposal would constitute an sustainable form of development with regard to the site's location, vehicle movements and parking provision, is unjustifiable.

4. The PPG indicates that local planning authorities are at risk of costs being awarded against them if they prevent development which should clearly be permitted, having regard to the development plan, national policy and any other material considerations. Other examples of unreasonable behaviour include not determining similar cases in a consistent manner, failing to produce evidence to substantiate refusal reasons and making vague, generalised or inaccurate assertions which are unsupported by objective analysis.

5. The application subject to the appeal sought planning permission for development without complying with conditions attached to an approved scheme[1]. It is not disputed that the Council found the site to be in a sustainable location for the approved scheme. It is also undisputed that the Council and the Planning Inspectorate found the area to be sustainably located

[1] Council reference: CA/15/01938/VAR

when assessing earlier schemes. There is no evidence indicating that the area is less accessible than when the earlier decisions were made.

6. The Council determined that the travel plan submitted with the proposal is insufficiently robust. However, it is similar to one that has previously been approved for the development on the site. No convincing evidence has been presented which substantiates the Council's difference in position as to the merits of the travel plans. Additionally, no objective evidence was provided to support the Council's claims that the proposal would have harmful parking, traffic congestion and highway network impacts.

7. The committee report also states that the site is in a sustainable location close to the city centre. Whilst the Council's Planning Committee is not bound to follow the recommendations of its planning officers, it must substantiate the decisions it makes. It is commonly held that sites near city centres are accessible locations and the evidence advanced by the applicant demonstrates that this is the case for the proposal. Compelling evidence to counter the applicant's evidence or substantiate the Council's position has not been provided. I am not satisfied that conflicts with the Canterbury District Local Plan and the National Planning Policy Framework have been demonstrated.

8. The Council has therefore failed to substantiate its only refusal reason and has not determined similar cases consistently. The refusal of planning permission therefore constitutes unreasonable behaviour and the applicant has been faced with unnecessary and wasted expense in having to make the appeal.

9. Although the appeal has been dismissed following the submission of an advice note from Natural England during the appeal process, the Council's sole basis for refusing permission was unreasonable, as set out above. A full award of costs is therefore justified.

Conclusion

10. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated. A full award of costs is justified, to cover the expense incurred by the applicant in lodging the appeal.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Canterbury City Council shall pay to Graduate Two Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Mark Philpott

INSPECTOR