
Costs Decision

Site visit made on 14 June 2021

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 28 June 2021

Appeal Reference: APP/F0114/W/21/3270272

Land to the rear of 43 Upper Oldfield Park, Oldfield Park, Bath BA2 3LB

- 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 Mrs Margaret Favager for a full award of costs against Bath and North East Somerset Council.
 - The appeal was against a refusal of the local planning authority to grant planning permission for development described as a 2 storey 3 bed dwelling and associated parking using existing access.
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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. The applicant claims that the Council acted unreasonably on Grounds stated as:
 - (a) making vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis;
 - (b) not determining similar cases in a consistent manner; and
 - (c) preventing or delaying development that should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. With regard to Ground (a) the applicant makes two main claims. First that the Council failed to make clear how the development would impact on the spaciousness of the plot, and second that it failed to make clear how the development would cause less than substantial harm to Bath Conservation Area (the Conservation Area). The officer report however clearly identifies a link between the proportions of Charters, and the size of the plot, and sets this within the context of historic development standing in large plots along Upper Oldfield Park. Both points were thus adequately addressed. That being so, and notwithstanding the fact that in assessing the scheme my own findings differed from those of the Council, Ground (a) fails.

5. The basis for Ground (b) are comments made by consultees in relation to a previously refused scheme for residential development of the site, and the appeal scheme. A shift in view regarding the principle of development of the site, as too the level of detail contained within consultation responses, is indeed apparent between the two schemes. Both schemes were however ultimately refused by the Council. Insofar as the reasons cited related to character and appearance and the Conservation Area, the grounds were furthermore similar in each case. That being so, differences identifiable within consultation responses did not translate into any obvious inconsistency in the determination of the application subject of the appeal. Ground (b) therefore fails.
6. In view of my findings in relation to Grounds (a) and (b) above, Ground (c) cannot logically succeed. Again, this is unaltered by the fact that I ultimately found the scheme to be both acceptable and compliant with the development plan. Ground (c) therefore also fails.

Conclusion

7. For the reasons outlined above, I find that unreasonable behaviour resulting in unnecessary expense as described in the PPG, has not been demonstrated. I therefore conclude that the application for an award of costs should be refused.

Benjamin Webb

INSPECTOR