
Costs Decision

Site visit made on 8 June 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th October 2021

**Costs application in relation to Appeal Ref: APP/H1705/W/21/3268668
Land between 41 and 43 Halliday Close, Basingstoke.
Grid Ref Easting:463026 Grid Ref Northing:150758**

- 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 Quadron Investments Ltd for a full award of costs against Basingstoke & Deane Borough Council.
 - The appeal was against the refusal of planning permission for erection of 6 no. residential dwellings (Class C3) along with associated car and cycle parking, waste/recycling storage, private amenity space and landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against local planning authorities may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process. The applicant is seeking a full award of costs on substantive grounds.
4. Paragraph 049 of the Guidance states that examples of unreasonable behaviour by local planning authorities which may give rise to a substantive award of costs include: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and refusing planning permission on a planning ground capable of being dealt with by conditions, where it is concluded that suitable conditions would enable the proposed development to go ahead.
5. The application for costs largely relies on the fact that the Council Officers recommended that planning permission be granted for the proposal, but that Council Members acted unreasonably by taking a different course of action

without adequate reasons to do so, resulting in the appellant incurring costs associated an unnecessary appeal. The applicant specifically cites that Members took a contrary to view to that contained within the Planning Officer Report to the Planning Committee in respect of the impact of the proposal on the character and appearance of the area and the impact on the amenity of the occupants of neighbouring properties.

6. In this case, I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
7. It will be seen from my decision, which accompanies this costs decision, that I do not agree with the Council Members in respect of the first reason for refusal regarding the impact of the scheme on the character and appearance of the area. However, I am satisfied that the Council has shown that it was able to substantiate the first reason for refusal. The reason for refusal, as set out in the decision notice is complete, precise and specific to the application. It clearly sets out the policy of the *Basingstoke and Deane Local Plan 2011-2029* (2018) (the Local Plan) against which the proposal would be in conflict.
8. The reason for refusal has been adequately substantiated by the Council in its Statement of Case, which explains why the Council considers that the design and layout of the proposed development, including the new residential building and proposed parking and bin storage, would result in a cramped and incongruous development which would be out of keeping with surrounding development and would materially harm the character and appearance of the area, contrary to Local Plan Policy EM10.
9. In respect of the Council's second reason for refusal, the applicant has drawn my attention to parts of the Member debate which took place prior to the determination of the application. Whilst there was a long discussion in respect of the matter of the impact of the loss of the existing informal parking arrangements on the site, the evidence before me is that following a request for clarification of Member concerns in respect of 'amenity' for the purposes of the second reason for refusal, it was confirmed that a loss of parking was not one to be included within this reason for refusal.
10. It was further clarified that 'amenity' referred to the amenity of existing residents, and in this respect regard would be had to public representations made to the Planning Committee and the comments of the Council's Urban Design and Landscape Officers. Furthermore, Local Plan Policy EM10 was confirmed to be the relevant development plan policy, together with the Design and Sustainability Supplementary Planning Document (DSSPD). Accordingly, I also find that the second reason for refusal, as set out in the decision notice is complete, precise and specific to the application. It clearly sets out the Local Plan policy with which the proposal would be in conflict.
11. The Council's Statement of Case has expanded upon and provided justification for the second reason for refusal. It confirms that it relates specifically to impacts on neighbouring living conditions arising from the proposed positioning of the building in relation to neighbouring properties, having regard to, primarily privacy concerns in respect of the impacts on the properties to the front and rear of the new building, and also concerns about the proximity of the

building to the properties to the sides of the appeal site, which have side entrances that would face the new building.

12. I have not found harm in respect of the latter. However, in dismissing the appeal, I have found material harm in respect of the second reason for refusal relating to the impact of the proposal on the living conditions of neighbouring occupants in respect of privacy concerns.
13. The applicant considers that the Council has not appropriately taken account of the Council's inability to demonstrate a 5 year supply of housing land and other economic, social and environmental benefits of the scheme in the determination of the application. The Officer Report and the Council's Statement of Case demonstrate that the Council has had regard to the material consideration of the lack of 5 year housing land supply. In justifying the refusal within the Statement of Case, the Council has applied the balance as required by Paragraph 11 of the *National Planning Policy Framework 2021* (the Framework), finding the identified harm to significantly and demonstrably outweigh the benefits of the development when considered against the policies within the Framework taken as a whole.
14. Accordingly, I find that the Council was entitled to refuse the application and defend the appeal and has not acted unreasonably in so doing.

Conclusion

15. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S Leonard

INSPECTOR