The Planning Inspectorate

Costs Decisions

Site visit made on 17 August 2021

by S J Lee BA(Hons) MA MRPTI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2021

Costs application in relation to Appeal Ref: APP/C1570/W/20/3264735
Koumala, Thornton Road, Little Canfield CM6 1SX

- 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 Rivertree Residential for a full award of costs against Uttlesford District Council.
- The appeal was against the refusal of planning permission for demolition of existing dwelling and annex, construction of 4no. dwellings with associated parking and landscaping.

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 appellant has put forward a number of concerns. In summary, these are that the Council failed to produce evidence to substantiate each reason for refusal, made vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, imposed a condition that is not necessary and has not determined similar cases in a consistent manner.

4. As the original application was refused, the Council did not impose any conditions. Furthermore, I am satisfied that the imposition of conditions would not have provided sufficient mitigation to allow the development to proceed. Therefore, while it is not entirely clear from the applicant's statements where the concern lies in this regard, I am satisfied the Council did not act unreasonably in terms of the imposition of conditions.

5. The applicant's criticism of the Council's substantiation of their case appears to stem entirely from the information in the decision notice. The criticism is that this did not provide sufficient information or clarity. In my view, the decision notice clearly sets out the main areas of concern and the harm caused. I do consider it necessary to go into the detail expected by the applicant in the reasons for refusal. The reasons given provide an accurate summary of the Council's concerns.

6. In response to the appeal, the Council also submitted their delegated officer report. It is normal for Councils to submit additional information to explain and support the reasons for refusal. It cannot be considered unreasonable behaviour to provide the delegated officer report to substantiate the reasons for refusal. The applicant also had the opportunity to address any points raised by the Council in their 'final comments'. Therefore, there has been no prejudice to any interests in the submission of this report.

7. The report provides sufficient information and clarity for me to understand the reasons for refusal and the harm the Council considered would be caused by the development. Disagreement about the interpretation of policies and development impact are matters of planning judgement. The Council is entitled to come to a different view to the applicant and thus this is not evidence of unreasonable behaviour. In addition, although reference to Policy H4 was justified, even if this were not the case, it would have made little difference to the Council's overall argument. Conflict with other policies would still have existed. As such, there is no substantive evidence of unreasonable behaviour in this regard.

8. I am therefore satisfied that the reasons for refusal were substantiated and the decision was not based on vague or generalised assertions about the impact of the development. As such, there is no evidence of unreasonable behaviour in this regard.

9. The applicant asserts that the Council has been inconsistent in its approach by allowing other similar forms of development in the district, including backland development. The relevant policies allow for such development to be permitted in certain circumstances and each case must be judged on its own merits. There is no strong evidence to suggest that the Council has been generally inconsistent in its approach to windfall development. Moreover, the planning history of the site indicates a clearly consistent approach to development on this site. The Council has not acted unreasonably in this regard.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

S J Lee

INSPECTOR