The Planning Inspectorate

Costs Decision

Site visit made on 17 November 2021

by David Prentis BA BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 NOVEMBER 2021

Costs application in relation to Appeal Ref: APP/Q3820/W/21/3273511
Car Park, Station Way, Northgate, Crawley RH10 1BJ

- 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 Simco Homes Limited for a full award of costs against Crawley Borough Council.
- The appeal was against the refusal of planning permission for redevelopment of car park to form mixed use residential and commercial scheme.

Decision

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

Reasons

2. Planning Practice Guidance (the Guidance) states that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour may be procedural, relating to the process, or substantive, relating to issues arising from the merits of the appeal.

3. The applicant submits that the Council did not engage in discussions as it should have, citing a number of reasons for refusal founded on comments from consultees that were not discussed with the applicant in a positive or proactive manner prior to determination. This is an allegation of procedural unreasonableness.

4. The National Planning Policy Framework (the Framework) states that local planning authorities should approach decisions on proposed development in a positive and creative way, working proactively with applicants to secure developments that will improve the economic, social, and environmental conditions of the area. The Framework goes on to highlight the importance of pre-application engagement, commenting that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties.

5. There is no dispute that there were detailed pre-application discussions in this case. There is disagreement over the extent to which pre-application changes to the proposal addressed the comments that were made by the Council. Nevertheless, the pre-application process indicates to me that the Council sought to engage with the applicant in a positive way. Overall, I do not think that the Council's approach could fairly be characterised as lacking co-operation.

6. Once the application had been made, the Council identified a wide range of matters of concern. In those circumstances it was necessary to decide whether to engage in further negotiations or to determine the application as it stood. This matter was discussed at the Committee meeting, the minutes of which record that:

   "*Following a query from a Committee member that some of the reasons for refusal were excessive, the Principal Planning Officer confirmed that the Local Planning Authority would normally look to negotiate improvements to a scheme. However, the proposed development unfortunately presented a wide range of issues to address and would require substantial improvement in many areas, which could not be achieved through the current application*."

   In my opinion that was a reasonable exercise of planning judgement. There was no requirement for the Council to discuss the responses received from the various consultees with the applicant before preparing a committee report. The applicant argues that all of the disputed matters could have been addressed in a single revision of the drawings. However, the Council was entitled to reach its own view on that point.

7. I note that the committee report did not draw attention to the views of the local highway authority in relation to the absence of on-site parking. Those views supported the applicant on this matter. The applicant states that this was corrected at the committee meeting. Nevertheless, the Council's sixth reason for refusal still refers to the lack of on-site parking as a point of objection. The Council did not substantiate this element of this reason for refusal. To that extent, the Council behaved unreasonably. However, I do not think that this resulted in any unnecessary expenditure on behalf of the applicant. No additional technical work was required. The applicant simply had to refer to the comments of the highway authority in its appeal statement.

8. My overall assessment is that the Council acted reasonably in deciding to determine the application as it stood. The application for costs should therefore be refused.

David Prentis

Inspector