The Planning Inspectorate

Costs Decision

Site visit made on 5 January 2022

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 February 2022

Costs application in relation to Appeal Ref: APP/Q4625/W/21/3283158
27 Lindridge Road, Shirley, Solihull, West Midlands B90 2QJ

- 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 Ms Danielle Hunt against the decision of Solihull Metropolitan Borough Council.
- The appeal was against the refusal of planning permission for change of use to an 8 No. bedroom HMO including two storey side and single storey rear extensions.

Decision

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

Reasons

2. The applicant has applied for a full award of costs. Irrespective of the outcome of an appeal, the National Planning Practice Guidance, (PPG), advises 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.

3. In summary, the applicant considers that the Council failed to justify all reasons for refusal, and that it relied on vague, generalised and inaccurate assertions, which were not material planning considerations, in refusing to grant planning permission. Consequently, the applicant considers the Council has prevented or delayed development which should clearly have been permitted having regard to the development plan, national planning policy and other material considerations. The applicant also considers that the Council could have requested a noise assessment during the planning application process or imposed a condition requiring one to be submitted on the grant of planning permission.

4. The applicant contends that the Council did not liaise with her regarding potential amendments to the proposed operational development. The applicant also contends that the Council has been inconsistent in its decision making, referring to a range of cases where extensions have been carried out either under permitted development rights or with the consent of the Council. The applicant also considers the Council has failed to address or

respond to matters of detail in her appeal statement and has not provided any objective analysis of the impacts of the proposed development.

5. In response, in summary the Council considers that it exercised its duty to determine the application in a reasonable manner. The Council maintains that the Council Officer delegated report provides robust grounds to justify the reasons for refusal. The Council contend that there is no statutory requirement for it to have requested further information from the appellant prior to determining the application. A judgement was taken regarding the impact of the proposal on the living conditions and the character and appearance of the area, with reference to development plan policy, local guidance and national planning policy. I note that without a detailed noise assessment up-front, the outcome of such a report could not have been guaranteed. Therefore, it could not be guaranteed that any identified concerns could have been mitigated against. As such, a condition requiring a noise assessment post determination would not have been satisfactory.

6. Additionally, the Council points out that it has no control over extensions carried out under permitted development rights; and, that most of the examples referred to which had been granted permission by the Council occurred before the adoption of the House Extensions Guidance document. The Council also contends that there was communication between it and the appellant prior to determination of the application, for example responding to the appellant's request for the application not to be heard in public at the Committee meeting.

7. Bearing in mind all the evidence before me, I consider that the Council Officer's delegated report sufficiently justifies the reasons for refusal, reaching a judgement on the issues and referencing development plan and national planning policies. I note that, although there may not be a statutory requirement, paragraph 38 of the Framework advises local planning authorities to approach decisions in a proactive way. However, I appreciate the pressures local planning authorities are under to make decisions within statutory timescales. Although I do not have all the details regarding its reasoning and decision-making processes, the Council was entitled to exercise its judgement regarding the impact of the proposal on living conditions, the host property and the character and appearance of the area. The Council's statement provides brief reasons as to why other examples of development referred to in the area were not directly comparable to the proposal in the appeal.

8. For the reasons outlined above, I conclude that it has not been unequivocally demonstrated that the Council behaved unreasonably in respect of any substantive or procedural matters associated with the determination of application Ref: PL/2021/00903/MINFHO. Consequently, there has not been any unreasonable behaviour which caused the applicant to incur unnecessary or wasted expense in the appeal process, as described in the PPG. I therefore conclude that a full award of costs is not justified.

J Williamson

INSPECTOR