Costs Decision

Site visit made on 8 March 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2022

Costs application in relation to Appeal Ref: APP/W3710/W/21/3285261
Camp Hill Dental Practice, 206 Camp Hill Road, NUNEATON CV10 0JL

- 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 Camp Hill Dental Practice for a full award of costs against Nuneaton and Bedworth Borough Council.
- The appeal was against the refusal of the Council to grant, subject to conditions, planning permission for Single storey extensions to front, side and rear.

Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.

3. The applicant submits that the Council has behaved unreasonably in refusing the application for vague reasons with broad brush and generalised allegations about the unsubstantiated assertion that the development would adversely impact unspecified amenities of the area, without any supporting basis or evidence. Furthermore the Council has not considered its Public Sector Equality Duty (PSED) to provide services for disabled patients. As a result the Council has behaved unreasonably causing unnecessary and wasted expense by the appellant.

4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

5. Members are fully entitled to disregard or disagree with officers' advice, as long as the Council can clearly demonstrate why a proposal is unacceptable on planning grounds. The Council contends that Members raised a number of concerns during discussion of the application at the planning committee, including parking and impact on residential and visual amenity including noise and general disturbance. In light of the protracted planning and enforcement history on the site it is not unreasonable in my view for Members to have had these concerns, some of which were also expressed by a number of local residents.

6. The reason for refusal in the decision notice is complete and relevant to the application in that it states the policy with which the proposal would conflict, and the aspects of the proposal that gives cause for concern. I accept that the 'amenities of the area' have not been spelled out, but the reason for refusal has been further substantiated in the Council's Statement of Case, which sets out its key concerns, and I was able to make my decision.

7. Provision for less able-bodied patients/staff has already been made at the premises some years ago with the provision of a ramp, and disabled toilet and treatment room on the ground floor. The Council acknowledged this in its report to the committee and considered that enlarging disabled facilities was appropriate in light of census data about the disabled population. The Council was entitled to find the proposed extensions would be unacceptable in other ways and I am satisfied it did not neglect its PSED.

8. In the light of the above I conclude that the Council's planning committee evaluated the application and the merits of the scheme, and had reasonable concerns about the impact of the proposed development which justified its decision. In this regard the Council has not acted unreasonably. The appeal could not have been avoided.

9. As the Council has not acted unreasonably in this case, I need not concern myself as to whether wasted expenditure has occurred, as both tests need to be satisfied before an award of costs can be made.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award for costs is therefore not justified.

K Stephens

INSPECTOR