



Costs Decision

Site visit made on 20 September 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2022

Costs application in relation to Appeal Ref: APP/X2410/W/22/3299994 45 Beveridge Street, Barrow upon Soar, Leicestershire LE12 8PL

- 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 Williams Builders for a full award of costs against Charnwood Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of existing bungalow, associated buildings & structures and erection of 7 no dwellings.
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Decision

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

Reasons

2. Paragraph 30 of the Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. In this case the Council's officer had recommended the application for approval. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council must clearly demonstrate why a proposal is unacceptable on planning grounds and provide clear evidence to substantiate that reasoning.
4. Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Of the examples of unreasonable behaviour provided in the PPG, the applicant refers me to vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis and, 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.
5. The reasons for refusing planning permission, including reference to the necessity to balance a conflict with the aim of sustaining or enhancing heritage assets with the public benefits of a development, were clearly set out in the Council's Decision Notice. Notwithstanding previous discussions with Council officers, Paragraphs 6.7 and 6.11 of the Council's statement provided a commentary to clarify its concerns in relation to the scale, layout and design of the proposed development. The latter paragraph set out concerns over the

amount of development in an area of the street characterised by more spacious plots. It highlighted the potential implications of the effect of the size and location of development with reference to the proximity to trees, the associated parking, and garden sizes.

6. The Council's appeal statement subsequently applied those findings with reference to the Conservation Area Character Appraisal's commentary in relation to Beveridge Street and the setting of 47 Beveridge Street (paragraphs 6.15-6.19).
7. In concluding that the proposal would fail to preserve or enhance the character and appearance of the Conservation Area and adversely affect the setting of the adjacent Listed Building, the Council had identified harm to the designated heritage assets. This is consistent with the applicant's own appeal statement which agreed that less than substantial harm would arise. In identifying such harm, it is clear that the Council considered it to be in conflict with the development plan.
8. In the context of the National Planning Policy Framework (the Framework), such harm needs only be classified as substantial or less than substantial. Regardless, the Framework is clear that great weight should be given to the conservation of designated heritage assets.
9. In subsequently applying the Paragraph 202 and s38(6) balance, it is a matter for the decision-maker as to the weight to apply to any perceived benefits. The applicant asserts that the Council failed to attribute appropriate weight to the matters at hand, including that the weight to housing delivery was limited by the Council's failure to acknowledge any benefit from the small site's development by an SME builder.
10. However, it is significant to note that, whereas the delivery of housing to meet a housing deficit might be attributed planning weight as a public benefit in the Paragraph 202 balance (including the associated economic benefits to the developer), the use of a small site within the settlement area would not be of any additional public benefit.
11. The Council's statement acknowledged the in-principle support for the development of sites within the settlement area. The Framework attributes great weight to the contribution such sites can make to the mix of available housing sites. However, having determined that the public benefit of limited housing delivery would not outweigh the effects on the heritage assets, I find it was not unreasonable or irrational for the Council to conclude that this important but more limited aspect of housing delivery, which would lead to the same outcome, would not be sufficient to outweigh the identified harm in the planning balance.
12. Notwithstanding that the Council appears to have attributed its weight in the context that the 'presumption' applied (a broader approach than the public benefits test) and the subsequent application of 'very limited weight' to housing delivery is perhaps frugal, having provided its reason for applying such weight, I cannot find the approach amounts to unreasonable behaviour.
13. The applicant's further assertion that the decision was based on third-party representations is not substantiated. It is therefore a concern to which I attach limited weight.

14. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Hitchcock

INSPECTOR