The Planning Inspectorate

Costs Decision

Site visit made on 25 October 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 November 2022

Costs application in relation to Appeal Ref: APP/W1905/W/21/3288510
Land at Barrow Lane, Goffs Oak, Cheshunt EN7 5LT

- 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 Roxanne Lawrence of Teens Unite for a full award of costs against Borough of Broxbourne Council.
- The appeal was against the refusal of planning permission for development described as 'use of site as a specialist retreat for young people suffering with a cancer diagnosis, including the erection of a new retreat house.'

Decision

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

Reasons

2. 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. The applicant considers that the Council behaved unreasonably through suggesting the appeal site as a suitable for the development, creating a legal agreement relating the sale of the land, and as the Planning Committee refused the planning application contrary to the officer's recommendation. The applicant claims this resulted in unnecessary or wasted expense through having to lodge the appeal.

4. The suggestion that the site had potential for development by a member of the Council would have undoubtedly raised the expectations of the applicant and this was clearly a defining factor in the applicant's decision to pursue the development proposals. However, while I do not have substantive details of those early discussions, it remains the case that the site was in the designated Green Belt, and the relevant planning policies and material considerations of the National Planning Policy Framework (the Framework) would inevitably apply in the assessment of any subsequent development proposals. The Council in its capacity as the local planning authority were not bound to follow the advice given by this particular member.

5. The legal agreement created by the Council for the sale of the land could also have given hope that the Council would support such an application for planning permission. However, this similarly occurred separately to the planning process. While it is not within the scope of this appeal to scrutinise

that Agreement for Sale, it is clear that the document made provisions for a potential planning appeal. In any event, the decision of whether or not to grant planning permission would have ultimately lay with the local planning authority.

6. While these processes would have been frustrating and undoubtedly costly to the applicant, this engagement with the Council lay outside the scope of the planning process. The PPG is clear that unreasonable behaviour that could give rise to an award of costs, would be that of the local planning authority, rather than other Council departments.

7. The Council's officer report to the Planning Committee describes the conflicts with the development plan and the Framework in terms of its Green Belt impacts. It makes clear in bold text at paragraph 8.12 that this was not a clear cut case but that a balancing exercise of other considerations was required. It was therefore not a development which should necessarily clearly have been permitted in terms of its accordance with the development plan, national policy and other material considerations.

8. While the officer's report was explicit in describing the weight that had been attached to the other considerations in reaching the recommendation, the weight to be given to those factors is ultimately a matter for the decision maker and the Planning Committee were not obliged to follow the same approach in their consideration of the application. The process of officer recommendation and Committee decision are an inherent part of the Council's decision making process.

Conclusion

9. For the reasons given, the Council as local planning authority did not display unreasonable behaviour, as described in the PPG. Consequently, unreasonable behaviour did not cause the applicant to incur unnecessary or wasted expense through entering into the appeal process.

C Shearing

INSPECTOR