The Planning Inspectorate

Costs Decision

Site visit made on 15 November 2022

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 FEBRUARY 2023

Costs application in relation to Appeal Ref: APP/M1595/W/21/3290011
Land Adjacent to 107 Humber Avenue, South Ockendon RM15 5JT

- 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 Vision Partners Homes Limited for a full award of costs against Thurrock Borough Council.
- The appeal was against the refusal of the Council to grant planning permission for a detached house and associated works.

Decision

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

Reasons

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

3. The applicant states that the Council behaved unreasonably by giving undue weight to previous decisions, by failing to have regard to a change to the appearance of the site (namely the erection of a fence along the boundary with No.107 Humber Avenue) since the previous decisions, by their lack of reference to the submitted Design and Access Statement and to letters of support from local residents, and by describing the site as narrow without reference to any policy definition of this term.

4. The planning history of the site and the previous appeal decision are material planning considerations, which the Council was correct to have regard to. The PPG is clear that local planning authorities may be at risk of an award of costs for not determining similar cases in a consistent manner. The appeal proposal is similar to the scheme that was previously refused planning permission and that was dismissed at appeal. The Council had also advised at pre-application stage that the proposal was unlikely to be supported.

5. The construction of a high fence along the boundary with No.107 Humber Avenue has not altered the fact that the site is an undeveloped open area of grassland, bounded by a low brick wall adjacent to the pavement. Moreover, there is nothing before me to confirm that this high fence was erected with planning permission, including in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015.

6. The term narrow is subjective and open to interpretation. In descriptive terms it is fair to say the site is long and narrow. In contextual terms, such as that set out in the Council's decision notice, the applicant accepts that the appeal site is not as wide as some neighbouring plots.

7. I acknowledge the error in the Council's report with regard to the number of letters of support received. However, the general support of local residents is a neutral matter and not one which would outweigh conflict with development plan policies. I also acknowledge that there is little reference to the points made in the Design and Access Statement, but this does not demonstrate that the Council had no regard to it. Moreover, I agree that No.92 Humber Avenue is not a recent new dwelling built in a side garden and the boundary wall enclosing it, approved in 2012, is not comparable to the appeal proposal for a new dwelling. The more recent dwelling referred to is to the rear of No.92, not the side and it would appear from the planning history records provided that this was approved in the late 1980's and pre-dates current development plan policies.

8. I have agreed with the Council that the proposed development, like the one previously refused and dismissed at appeal, would result in harm to the character and appearance of the area, and would conflict with the development plan. Whilst I have found that there are material considerations which, in my view, outweigh the limited harm I have identified, the Council was entitled to reach a different view.

9. In light of the above I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

R Bartlett

INSPECTOR