The Planning Inspectorate

Costs Decision

Site visit made on 10 February 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Costs application in relation to Appeal Ref: APP/D5120/W/22/3306696
58 Blendon Drive, Bexley, Kent DA5 3AB

- 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 Mrs Lavender for a full award of costs against the London Borough of Bexley.
- The appeal was against the refusal to grant permission in principle for an end of terrace two-bedroom two storey house.

Decision

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

Reasons

2. The 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 PPG outlines that 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, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. One example of such unreasonable behaviour is 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.

4. The applicant considers that in determining an application seeking permission in principle, the Council did not appreciate the object of applying for such permission and went beyond the requirements for that type of application.

5. As I have outlined in my decision, the scope of the considerations for permission in principle is limited to location, land use and the amount of development. This is clearly highlighted in the Council's officer report and statement, where it is clear that they considered that due to factors pertaining to location and amount of development, the proposed development was deemed to be unacceptable due to the impact on the character and appearance of the area. I have also found this to be the case in my decision.

6. The reason for refusal as set out in the Council's decision notice also clearly highlights matters of 'location' and 'amount of development'. It also clearly states the policies of the development plan that the Council considered the proposal would conflict with.

7. The applicant considers that in commenting that 'it has not been satisfactorily demonstrated that the site can accommodate the amount of development proposed' the Council went beyond the requirements of this type of application as there is no need to demonstrate the site can accommodate the amount of development proposed.

8. I accept that for such an application it would not normally be appropriate to refuse consent on the basis of the absence of certain detailed information. In this case however I find that the Council did not refuse consent simply on the basis of the lack of information as a matter of fact, but merely that they were not satisfied that the site could accommodate the development proposed. As I have also done, the Council based their decision on the evidence before them and I do not find that this amounts to unreasonable behaviour. Either way, the amount of development proposed is one of the matters within the scope of a decision whether to grant permission in principle.

9. The applicant considers that the Council acted unreasonably insofar that they did not initiate any constructive co-operation or dialogue. The Council have commented that this was due to the fact that they did not consider any such dialogue would have resulted in a favourable outcome. I do not consider that the lack of such dialogue amounts to unreasonable behaviour.

10. I find nothing to suggest that a decision was not reached on the basis of the planning merits of the proposal, as submitted by the applicant. The Council exercised its planning judgement in determining the application in accordance with the relevant policies of the development plan (as they relate to the matters in consideration) as required. I also find no substantive evidence that the applicant incurred any additional expense as a result.

11. It therefore follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the applicant was put to unnecessary or wasted expense.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated.

A M Nilsson

INSPECTOR