The Planning Inspectorate

Appeal Decision

Site visit made on 1 March 2023

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2023

Appeal Ref: APP/K0425/W/21/3289820
Garages to the rear of Marefield Road, Marlow 484632, 186898

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Redkite Community Housing against the decision of Buckinghamshire Council.
- The application Ref 20/07701/FUL, dated 4 September 2020, was refused by notice dated 30 June 2021.
- The development proposed is demolition of existing garage and the provision of 4 dwellings with associated access and landscape.

Decision

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

Reasons

2. The Government's 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 substantive points in the appellants cost application include that the Council has misunderstood the proposal, set aside consultee comments without justification and failed to produce evidence to substantiate reason for refusal one, which mainly relates to car parking, at appeal. Their case is that this has led to development being prevented which should clearly be permitted.

4. In considering this development, which includes a change of use of land, it is not unreasonable for the LPA to consider the effect of the loss of any existing use. In this case although the site was not in operation, there was evidence before the LPA that it had recently been used for residents parking. For the purposes of this planning application, whether this was likely to resume was a matter of judgement. Although it can be seen in my main decision that my conclusions differ from the Council's on this matter, I do not find the consideration of a previously operating lawful use resuming to be unreasonable in the circumstances of this case. Consequently, reason for refusal one which relates to 'the removal of the parking use from this land' is a reasonable reason for refusal.

5. There was no objection from the highways officer on this application. However, with regard to car parking, this was on the basis that the existing garages were not and would not be used for car parking and this is clear from the officers report. As set out above, Members took a different view on this point. Consequently, it is justified and reasonable that they departed from this advice.

6. The Council has provided a statement at appeal which sets out their position in relation to reason for refusal one. This focuses on the existing situation where residents have difficulty parking. However, it is for the Council to determine how best to defend their decision. As such the evidence provided is sufficient that this is not unreasonable behaviour.

7. Policy DM33 and DM35 of the Wycombe District Local Plan (2019) require that the development provides sufficient parking and prevents significant adverse impacts on the amenities of neighbouring land, amongst other things. They are therefore clearly relevant to this matter. As such, for the reasons set out above, the Council has not prevented development which should clearly be permitted.

8. Consequently, for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated.

9. For this reason, neither a full nor partial award of costs is justified.

H Miles

INSPECTOR