The Planning Inspectorate

Costs Decision

Site visit made on 23 May 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2023

Costs application in relation to Appeal Ref: APP/M3835/W/22/3309942
113 Salvington Road, Salvington, Worthing BN13 2JD

- 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 Ms E Taylor-Moore of NLC Durrington Freehold Limited for a full award of costs against Worthing Borough Council.
- The appeal was against the refusal of planning permission for development described as 'demolition of Durrington New Life Church and erection of nine apartments across three floors (resubmission of approved application No. WDM/0271/18).'

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. The national Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs can only be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG advises that cost awards may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).

3. The applicant is seeking a full award of costs on substantive grounds, as they consider that the Council refused the planning application on grounds which were not relevant in the determination of the application and ignored key material considerations.

4. The appeal scheme seeks to provide 2 new dwellings and would materially change the appearance of the consented scheme. I disagree with the appellant that the proposal is for minor alterations. I also find that the Council has accurately described the character of the area within their delegated report.

5. The appellant alleges that the Council has misinterpreted the Daylight/Sunlight report. However, loss of daylight or sunlight does not form part of the reason for refusal and I do not consider that the Council's comments on this matter constitute unreasonable behaviour that has resulted in unnecessary or wasted expense, as described in the PPG.

6. I acknowledge that only a limited number of objection letters were received and none on the grounds of living conditions. However, I have identified clear harm in respect to both main issues and consequent policy conflict. The lack of objections does not alter my findings on the main issues.

7. The applicant considers that that the Council is required to give greater weight to the National Planning Policy Framework (the Framework) than the development plan due to the Council's recent under delivery of housing. As can be seen from my appeal decision, I found that the proposed development would harm the character and appearance of the area and the living conditions of neighbouring residential occupiers. I also found that the adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

8. Overall, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme. I have found that the Council had reasonable concerns about the impact of the proposed development, which justified its decision. I also found harm and conflict with the development plan, taking into account all material considerations, and I dismissed the appeal accordingly. As a result, I cannot agree that the Council has acted unreasonably in this case.

Conclusion

9. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for an award of costs is refused.

A James

INSPECTOR