
Costs Decision

Site visit made on 23 October 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2024

**Costs application in relation to Appeal Ref: APP/M1520/W/23/3315549
Hobson and Sons Ltd, Kenneth Road, Thundersley, Benfleet, Essex SS7 3AF**

- 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 Savannah Property Investments Ltd for a full award of costs against Castle Point Borough Council.
 - The appeal was against the refusal of planning permission to demolish an existing building and the erection of No. 32 residential apartments, landscaping and associated access and parking arrangements.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance 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 has alleged that the Council behaved unreasonably by preventing development that should clearly have been permitted, by failing to provide evidence to substantiate its reason for refusing planning permission, by making vague, generalised and inaccurate assertions about the scheme's impact, and by not determining similar cases in a consistent manner.
4. I first note that the Council's Planning Committee Members were entitled to come to a different decision to that recommended to them by its officers. This would not be unreasonable, provided that the conclusions drawn were properly substantiated.
5. I acknowledge that the ratio of parking to proposed dwellings is identical to that approved by the Council when granting planning permission¹ in May 2022 for development at the same site involving the erection of 30 apartments. However, crucially, an additional four two-bedroom apartments are proposed as part of the 32-apartment scheme such that a more pronounced shortfall in provision is now identifiable. Moreover, the expected minimum vehicle parking standards for new dwellings that are set out within the Essex County Council Parking Standards - Design and Good Practice (2009) (the Parking Standards) reflect, in no uncertain terms, the likely additional parking demand associated to two-bedroomed units when compared to one-bedroom dwellings.

¹ Ref: 21/0813/FUL

6. The Parking Standards offer flexibility in main urban areas whereby reductions to the minimum standards may be considered. Indeed, the site's close relationship to bus stops was an especially important factor in guiding the successful outcome of the planning appeal. However, in the context of a pronounced shortfall in parking provision when compared to suggested minimum standards, it has not been clearly demonstrated that flexibility of judgement did not factor into the Council's decision-making.
7. The applicant has provided evidence, including photographs taken at two different snapshots in time, to seek to demonstrate that immediately surrounding streets are not subject to parking congestion. However, the Council's refusal reason refers to surrounding streets and is not restricted to alleging parking congestion in only Bradley Close and Bradley Avenue. It is also relevant to note that the related concerns raised by local residents did not emanate exclusively from inhabitants of these particular streets.
8. My own observations of the local area highlighted that the site occupies a predominantly dense urban location and sits in proximity to a range of land uses. There are also various no waiting restrictions in place (including along Kenneth Road) and my daytime inspection indicated typically high concentrations of parking on residential roads free from permitholder restrictions. Such roads included Dorothy Gardens and Bradley Link.
9. Therefore, whilst the Council's assertions could have been made on a clearer and more precise basis, I do not find that it was wholly unreasonable to allege that, by reason of the level of on-site provision intended, the proposal could be detrimental to the flow of traffic or the amenity/convenience of surrounding residents. This is notwithstanding the successful outcome of the planning appeal, nor the absence of an objection to the scheme from the Highway Authority.
10. The applicant has brought to my attention various other decisions in the Castle Point borough where a ratio of one parking space per unit has been accepted by the Council. However, site and case circumstances would vary. Further, apart from with respect to a site at High Road, Benfleet, I have not been presented with a clear/detailed breakdown of the mix of units considered and consented elsewhere. When also noting that any scheme for development must be considered upon its own individual merits, inconsistent decision-making has not been clearly demonstrated.
11. The applicant has referred to resistance from the Council at application stage to sharing the consultation responses of local residents. Such an approach would sit uncomfortably against the requirement of the National Planning Policy Framework for local planning authorities to work proactively with applicants. However, costs can only be awarded in relation to unnecessary expense generated at appeal stage and it has not been clearly demonstrated that any such behaviour led to additional costs being incurred at appeal.
12. The Statement of Case submitted by the Council is not attributed to a specific author, which could have held the potential to advance credibility and to clarify expertise. However, the submission still performs the role of setting out the Council's case and there is no material unreasonableness associated to its lack of attributed authorship.

13. I note no explicit reference to the presumption in favour of sustainable development within the Council's Committee Report. However, this is likely because the positive recommendation that was put forward did not necessitate the engagement of paragraph 11d of the Framework. Whilst it has also been suggested that the Committee debate that took place did not factor in the proper/relevant balance, there is little evidence before me to verify this. In any event, taking account of all my above findings and notwithstanding the successful outcome of the planning appeal, I do not find that the Council acted unreasonably by refusing planning permission.
14. For the above reasons, notwithstanding the somewhat vague nature of its assertions as regards the scheme's impacts, I find that the Council has satisfactorily substantiated its reason for refusing planning permission and that inconsistent decision-making has not been demonstrated. Moreover, development was not prevented or delayed that should clearly have been permitted. Therefore, in my judgement, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Andrew Smith

INSPECTOR