The Planning Inspectorate

Costs Decision

Site visit made on 1 June 2021

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2021

Costs application in relation to Appeal Ref: APP/P4225/W/21/3269687
Vacant Site, 53-61 Tweedale Street, Rochdale OL11 1HH

- 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 Mr Usman Anjum of Sigma Property Ltd for a full award of costs against Rochdale Metropolitan Borough Council.
- The appeal was against the refusal of planning permission for erection of two and a half-storey building with dormers to rear roofslope comprising of 4 no. retail units (Class A1) at ground floor with 4 no. self-contained apartments (Class C3) above.

Decision

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

Reasons

2. Paragraph 030 of 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. Paragraph 049 of the PPG states that examples of unreasonable behaviour by local planning authorities include 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; failure to provide evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and not determining similar cases in a consistent manner.

4. It is evident from the Council's Officer report and statement of case that matters such as the previous planning history which included a previous appeal decision were fully considered by the Council when reaching a decision. The appellant indicate that the Council did not have regard to their own planning statement from when they owned the site however, the Council explain this was a statement in relation to the sale of the land and not directly related to this scheme. I am satisfied that the Council have not acted unreasonably in these regards.

5. The Council is not duty bound to follow advice of its professional officers however, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In this case, the Council's Highway Engineers had not raised any objections to the scheme. There is clear evidence within the Council's Officer report and statement of case that the

Council considered highway safety matters including material considerations such as the Highway Engineers comments, local representations and previous planning history. The Council have therefore not acted unreasonably in this regard.

6. It can be seen from my decision that I found that there was no harm to living conditions of neighbouring occupiers, nevertheless such issues are subjective in manner and the Council's statement of case clearly discuss why the proposal is considered unacceptable in relation to living conditions and the development plan. The Council did not specifically identify which residential properties were alleged to be harmed however, given the alleged harm was related to a lack of on street parking, I do not consider specific properties required to be identified as it was an area of residential properties that would have been affected. I am satisfied that the Council have not acted unreasonably on this matter.

7. The appellant has indicated that this scheme has not been determined in a consistent manner with regards to a similar case. This similar case appears to be identified as the previous application on the site. This previous scheme was for development consisting of 3no. ground floor retail units and 6no. apartments which was refused by the Council. The developments are not similar with different ratio of mixed uses proposed. The Council have not erred in terms of dealing with similar cases in a consistent manner.

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Chris Baxter

INSPECTOR