The Planning Inspectorate

Costs Decision

Site visit made on 12 December 2013

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 January 2014

Costs application in relation to Appeal Ref: APP/B4215/A/13/2206969
43 Leighbrook Road, Manchester M14 6BG

- 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 Daniel Sudbury for a full award of costs against Manchester City Council.
- The appeal was made against the refusal of planning permission for the erection of a single storey side extension.

This decision is issued in accordance with Section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 15th January 2014

Decision

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

Reasons

2. Circular 03/2009 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 or wasted expense in the appeal process.

3. I do not accept that in this case the Council has prevented development that should clearly have been permitted. To my mind, the Council had reasonable grounds to conclude that the appeal property, once enlarged, would lead to the potential for an increase in the level of occupancy with the new extension in place. That is because the ground floor accommodation within the extended house could have been remodelled to provide an additional bedroom. Whether or not that outcome was a reasonable expectation is a matter of judgement. As such, it is inevitable that opinion will vary. Nonetheless, it was a possibility and therefore it was appropriate for the Council to consider the consequences of that outcome for the local area even though the appellant had repeatedly and consistently stated that an increase in the number of occupants would not occur if the development were to proceed.

4. In my opinion, the reason for refusal, which refers to the deleterious effects on the sustainability and character of the area from an increase in the level of occupancy, is precise and specific and refers to relevant development plan

policies. While cursory reference is also made to the National Planning Policy Framework, the relevance of national guidance is amplified in the Council's appeal evidence.

5. The Council's statement of case also explains why, in its opinion, No 43 fell within an area with a high concentration of houses in multiple occupation. In the absence of an agreed definition of 'high concentration' in the Council's Core Strategy Development Plan Document (CS), there is some subjectivity in making that assessment. Nevertheless, for the reasons given in my decision I, too, considered that CS Policy H 11 was relevant to the proposal and that the Council's general concern with regard to proposals to extend HMOs in such areas was not without foundation.

6. The Officer's report records that a representation was received from a local objector that refers to a single storey and/or double storey extension. While the Officer's report did not take the opportunity to correct that statement, there is nothing to suggest that the Council assessment was made on the same basis or that the objection had swayed the decision one way or the other.

7. It is true, as the appellant states, that the Framework encourages local planning authorities to approach decision-making in a positive way to foster the delivery of sustainable development. However, in this case, the Council concluded that the proposal would harm the sustainability of the area as the reason for refusal makes clear.

8. My assessment of the effects of the proposed development differed from the Council's approach primarily because I made different judgements on the evidence. It was not due to any inadequacies in the contents of the Council's case. That I came to a different conclusion, and supported the appellant's case, does not mean that the Council failed to substantiate its refusal of permission.

9. Overall, I consider that the evidence produced on appeal provides a respectable basis for the Council's stance. Therefore, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 03/2009, has not been demonstrated.

Gary Deane

INSPECTOR