Planning Inspectorate

Costs Decision

Hearing held on 13 and 14 November 2024

Site visit made on 12 and 14 November 2024

by A J Mageean BA(Hons), BPl, PhD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

Costs application in relation to Appeal Ref: APP/B3438/W/24/3340461
Land at Oakamoor Road, Cheadle, Staffordshire, ST10 1SS

- 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 Muller Property Group for a full award of costs against Staffordshire Moorlands District Council.
- The appeal was against the refusal of an application for outline planning permission for the erection of up to 48 no. dwellings.

Decision

1. The application for the award of costs is partially allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. The appellant contends that the Council has behaved unreasonably on substantive grounds by failing to substantiate its reasons for refusing the application. This is in relation to both the heritage and the landscape reasons sited in the Council's decision notice. The claim also relates to further reference to highway safety concerns set out in the Council's statement of case (SoC).

4. In relation to highway safety matters, the concerns of the highway authority had been addressed prior to the consideration of the application by the Planning Committee. Nonetheless, the decision was subject to an 'informative' on the decision notice which set out the concerns of the Committee about the position of the site access and its relationship with existing traffic coming into Cheadle. The Council's SoC further elaborates on such concerns, referring to on-site observations of current traffic speeds in relation to the proposed point of access, with photographic evidence seeking to illustrate this. The point about the site access being hidden, and concern about vehicle speeds in relation to it, was also reiterated by the Council's representative during the hearing.

5. Therefore, whilst the Council's representative confirmed to the appellant prior to the hearing that the Council were not pursuing a highways reason for

refusal, the Council's position on this matter was ambiguous both prior to and during the hearing. In these circumstances it is understandable that the appellant should seek to defend their position further, both by commissioning a Stage 1 Safety Audit, and also by having their highways expert in attendance at the hearing in order to address any further points arising.

6. In this regard I agree that the Council's position on highways matters was unclear, and that the safety concerns raised were unsupported by clear evidence. The position taken by the appellant was therefore unreasonable. This led to the appellant incurring unnecessary and wasted expense in the appeal process by further evidencing and addressing highway safety matters.

7. Turning to heritage matters, the appellant's position is that the Council's SoC does not present substantive evidence in relation to heritage matters, but rather it presents 'unevidenced assertion'. In this regard the Council's SoC refers back to the Committee report and also the original conservation officer response in support of their position. In basic terms this sets out concerns about the effect of the proposed development of the settings of both the Grade II listed Hall and also the Pool as a non-designated heritage asset. Whilst less than substantial harm is identified, the Committee report sets out that this would be outweighed by public benefits.

8. The Council's assessment is not set out formally in terms of the Historic England methodology referred to in Planning Note 3[1], and is somewhat disjointed in its presentation. However, with regard to the contents of both the Committee report and the SoC, there is sufficient explanation of the settings of both of the heritage assets, noting the historic and continuing relationship between the Hall and the Pool. It is also possible to appreciate the concerns regarding the nature of impacts on their significance, in terms of the physical enclosure of the former parkland. Therefore, the Council's position can be reasonably understood, albeit in basic terms. Typographical errors do not significantly undermine this understanding.

9. I am therefore satisfied that there was evidence to support this reason for refusal and to avoid vague, generalised or inaccurate assertions about the impact of the proposals.

10. In relation to landscape and visual matters, the appellant criticises the position taken by the Council in relation to the suggested landscape and visual impacts of the scheme. The Council's reason for refusing the application refers to the adverse impact on the rural setting of Cheadle, noting the effect of the development in the context of views of St Giles Church spire, and also that it would be a prominent intrusion. The nature of these concerns are set out in the Committee report, and with reference to the consultation response from the Arboricultural Officer.

11. Whilst noting some landscape and visual harm, I have disagreed with the Council on the degree to which the proposed development would conflict with policy requirements. I have also disagreed with part of the appellant's LVIA[2] in terms of the effects on Viewpoint 5. It is therefore evident that there is a degree of subjectivity in such assessments. Whilst the Council has not produced expert evidence at appeal stage to further explore their concerns in

[1] The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3 (Second Edition)
[2] Landscape and Visual Impact Assessment

relation to the harm identified, my view is that their position was adequately articulated.

12. The appellant also refers to the Council's suggestion that the impacts of the proposed development cannot be fully assessed given its outline nature, noting that this was not the Council's position at the time of the Committee report. On this point the Council raises concerns about the lack of detail presented, given the sensitivity of the location in both landscape and heritage terms.

13. As I have noted in my decision, the Illustrative Masterplan along with the Parameters Plan do give a reasonable indication of what could come forward, given the various constraints on the development of the site. Nonetheless, there was the opportunity during the hearing to consider the merits of the Council's concerns. During this discussion it was agreed that a condition restricting future reserved matters applications to two storey dwellings would be reasonable, given the site sensitivities. I therefore do not consider it to be unreasonable in principle for the Council to have raised such concerns. Overall, my view is that the Council has not acted unreasonably by maintaining their position on the landscape and visual reason for refusing the application.

14. More generally, the appellant criticises the different position taken by the Council in relation to the effects of the proposed development, suggesting that harms have been exaggerated and benefits underplayed. Whilst this may well be the case, the importance of the planning balance is acknowledged by the Council. Further, in taking a different position to the appellant, the Council's approach is not unreasonable in itself. I also note that in being required to set out their position in relation to the planning balance, the appellant has not incurred unnecessary or wasted expense.

Costs Order

15. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Staffordshire Moorlands District Council shall pay to Muller Property Group, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in challenging the Council's position in relation to highway safety matters; such costs to be assessed in the Senior Courts Costs Office if not agreed.

16. The applicant is now invited to submit to Staffordshire Moorlands District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A J Mageean

INSPECTOR