
Costs Decision

Site visit made on 15 May 2017

by Zoe Raygen Dip URP MRTPI

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

Decision date: 16 June 2017

Costs application in relation to Appeal Ref: APP/Y1945/W/16/3165400 177-187 Gammons Lane, Watford WD24 5JE

- 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 Peter Rice Developments Ltd., Raymond Rice Developments Ltd. and Rice Brothers Builders Ltd. for a full award of costs against Watford Borough Council.
 - The appeal was against the refusal of planning permission for residential development for five houses, comprising 2 x three bed and 3 x four bed units with associated car parking, access and landscaping.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) 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 the costs to incur unnecessary or wasted expense in the appeal process.
 3. The Council's Planning Committee decided to refuse the application contrary to advice of their professional officers who had produced a written report analysing the effect of the proposal on a number of matters including the character and appearance of the area. Authorities are not bound to accept the recommendations of their officers, but paragraph 049 of the PPG states that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal and if they rely on vague generalised or inaccurate assertions about a proposals impact, which are unsupported by any objective analysis.
 4. The Council relies on the minutes of the Development Management Committee (DMC) meeting dated 12 October 2016 to substantiate its reason for refusal. It is clear from the minutes that members of the DMC were concerned about the number of back garden developments in the local area of which the appeal proposal would be a further example. They considered this would be contrary to Government guidance on the development of garden land. This led to the reason for refusal which highlights the cramped form of development segregated from surrounding properties which it considered would lead to the development failing to harmonise with the existing character and appearance of the surrounding area. In so determining, the Council rejected the clear and
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unequivocal advice of its professional officers who advised that "it is not harmful or incongruous to the layout and urban grain of the area."

5. The effect of a proposed development on the character and appearance of an area is a relatively subjective matter, often determined by an exercise of judgement in the particularly circumstances of the case. In its appeal submissions the Council has sought to distinguish the appeal proposal from the surrounding development.
6. Nevertheless, as set out in my main decision, the proposed development reflects the existing layout of housing in the area with back garden development evident as reported by local residents and the Ward Councillor at the DMC and recorded in the minutes of the meeting. Furthermore, I found that the development would achieve good intervening distances between the existing and proposed houses so that the development would not be cramped but reflect the existing open character and appearance of the area. Moreover, the development would meet the specific requirements of the Council's Policy UD1 of the Watford Local Plan Core Strategy 2006-31 concerning backland development. The Council has been unable to demonstrate with realistic and specific evidence why the development would be materially harmful when examples of similar developments are present in the surrounding area.
7. Considerable weight should have been attached to the similarities to the surrounding residential development. Had that occurred, it is difficult to see how the Council could in arriving at an informed subjective opinion, have reasonably concluded that the proposed development was out of character with the area. I therefore consider that the Council was unreasonable in refusing the application in this regard and the costs of submitting an appeal in this respect should have been avoided.
8. I therefore conclude that unreasonable behaviour resulting in wasted expense, as described in the PPG has been demonstrated and that an award of costs is justified.

Costs Order

9. 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 Watford Borough Council shall pay to Peter Rice Developments Ltd., Raymond Rice Developments Ltd., Rice Brothers Builders Ltd., the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to Watford Borough 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.

Zoe Raygen

INSPECTOR