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## Costs Decision

Site visit made on 17 July 2017

**by Alison Partington BA (Hons) MA MRTPI**

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

**Decision date: 28<sup>th</sup> July 2017**

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### **Costs application in relation to Appeal Ref: APP/P3040/W/17/3172366 70 Wilford Road, Ruddington, NG11 6EY**

- 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 Mascari Design Solutions Ltd for a full award of costs against Rushcliffe Borough Council.
  - The appeal was against the refusal of planning permission for the demolition of the existing building and the erection of two detached dwellings and associated landscape.
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### **Decision**

1. The application for an award of costs is refused

### **Reasons**

2. The *Planning Practice Guide* (PPG) advises that parties will normally be expected to meet their own costs in relation to appeals, and that costs may only be awarded against a party who has acted unreasonably, and thereby caused the party applying for costs to incur unnecessary, or wasted, expense in the appeal process.
3. The application for an award of costs is made on the basis that the appellants consider that the Council's decision was based on inaccurate assertions about the amount of amenity space that would be provided for each of the dwellings. They consider that as a result the application was not properly assessed, and if it had been the decision could have been different, and the appeal avoided.
4. In determining the application the Council have sought to make a distinction between the total outdoor space for each dwelling, and what they consider would be useable garden space. To this end the Officer's report sets out in the "Details of the Proposal" section the total amount of outdoor space that would be provided for each dwelling, but in the "Appraisal" section sets out why it considers that parts of this should not be counted as useable garden space.
5. The appellant has suggested that the figure then quoted in the Council's appeal statement for the dwelling on Plot 1 is greater than mentioned in the Officer's report. However, in my view, it is clear that the figure in paragraph 5.5 of the Council's appeal statement is the Council's calculation for useable outdoor space if they were to utilise a similar approach to the appellant. The paragraph highlights that this figure includes both the roof terraces on the larger property, and sets out why the Council does not consider it is appropriate to do this. The paragraph also highlights that even if the appellant's approach to calculating the outdoor space is adopted then the useable outdoor space still falls below the guideline figures. As such, I consider that this does not indicate

that the Council has altered its views on the amount of useable garden space that would be available to the properties, or that the original decision was based on inaccurate assertions.

6. Moreover, both the Officer's report and the appeal statement set out substantive reasoning for what the Council consider to be the usable outdoor space provided in the development. Whilst the appellant may not agree with this reasoning, or with the Council's conclusion in this respect, this does not mean that the Council has acted unreasonably.
7. In the Council's response to the cost application they have suggested inaccuracies between figures the appellant has given for outdoor amenity space on the plans and within the appeal statement. However, the figures in the appellant's appeal statement quoted by the Council refer to the previous application on the site<sup>1</sup> which is also subject to appeal utilising the same appeal statement, not to this application. However, I am satisfied that this error only relates to the cost statement, and there is no evidence to indicate that in determining the appeal similar errors have occurred.
8. In conclusion, I am satisfied that the Council has met its obligation to give proper consideration to the planning application. Consequently, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus an award of costs is not justified.

*Alison Partington*

INSPECTOR

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<sup>1</sup> Application reference 16/02080/FUL and Appeal reference APP/P3040/W/17/3172365