



Costs Decision

Site visit made on 13 August 2019

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th October 2019

Costs application in relation to Appeal Ref: APP/N4205/W/19/3230201 Former railway cutting to the north of Springfield Road, Kearsley BL4 8HY

- 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 G Maher of W Maher and Sons Limited for a full award of costs against Bolton Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 42 dwellings, including importation of material to level land for development.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) 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's application is for an award of costs on the substantive grounds that the Council refused planning permission contrary to the advice of its planning officers and that the refusal is not supported by any professional evidence. The Council have not made any comments or submissions in respect of the application for an award of costs.
4. The Guidance sets out that unreasonable behaviour on substantive grounds can include failure to produce evidence to substantiate each reason for refusal on appeal and refusing planning permission on grounds that are vague, generalised or inaccurate assertions about a proposal's impact, unsupported by any objective analysis.
5. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different conclusion is reached, the Council must clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
6. Whilst the Council submitted a statement of case in respect of the appeal, the justification of the reasons for refusal was limited to an explanation of what the members of the Council's planning committee considered to be the case and a brief statement from a local Councillor which makes an assertion regarding the contaminated nature of the adjoining site that is contrary to the comments made by the Council's Environmental Health Officer on the planning

application. No technical submissions were made regarding any of the matters raised in the reasons for refusal and no substantive arguments were put forward to refute the evidence submitted by the appellant.

7. On the basis of the information before me, I conclude that the Council have not produced evidence to substantiate each of the reasons for refusal and that the reasons for refusal cited are generalised and inaccurate assertions about the proposal's impact that are not supported by any objective analysis.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full 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 Bolton Metropolitan Borough Council shall pay to by Mr G Maher of W Maher and Sons Limited, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Bolton Metropolitan 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.

John Dowsett

INSPECTOR