



Costs Decision

Site visit made on 21 January 2020

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

Costs application in relation to Appeal Ref: APP/W4223/W/19/3240142 Former RBS Bank, 1-5 Church Terrace, Oldham OL1 3AU

- 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 Tariq Mushtaq for a full award of costs against Oldham Metropolitan Borough Council.
 - The appeal was against the grant subject to conditions of planning permission for change of use from officer (Class A2) to 2no residential apartments (Class C3)
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Decision

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

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 costs to incur unnecessary or wasted expense in the appeal process.
3. PPG also provides examples of unreasonable behaviour by local planning authorities which include imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, failing to accept officers' or statutory consultees' advice without good planning reasons and preventing or delaying development that should have been permitted.
4. The condition subject to the appeal related to a restriction on the use of the application site. I have seen no objections to the scheme on this matter from any consultee, nor was it referenced in the Officer Report. Nonetheless, members of Committee are entitled not to accept the professional advice of Officers, as long as a case can be made for the contrary view.
5. However, other than the reason for the condition listed on the Decision Notice, no other justification has been made for the condition, and is not supported by any objective analysis or evidence to underpin the need for the condition. No Statement of Case was produced by the Council, nor any response to the application for costs made by the applicant in order to justify the imposition of the condition.
6. I find that the Council did behave unreasonably in regard to the imposition of the condition. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance,

has been demonstrated. An award of costs to cover the expense incurred by the applicant is justified.

Costs Order

7. 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 Oldham Metropolitan Borough Council shall pay to Mr Tariq Mushtaq, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting condition 6 of planning application PA/343581/19, approved on 18 October 2019.
8. The applicant is now invited to submit to Oldham 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Paul Cooper

INSPECTOR