



Costs Decision

Site visit made on 10 March 2020

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2020

Costs application in relation to Appeal Ref: APP/P4225/D/20/3245735 15, Walsingham Avenue, Middleton M24 1SR

- 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 Hoi Kin Lee for a full award of costs against Rochdale Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for a proposal described as a '2 storey side extension to dwelling with 2 metre set back from original building line from front façade'.
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Decision

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

The submission by Mr Hoi Kin Lee

2. The applicant submits that the Council's grounds for refusal are unreasonable, being made without evidencing the impact of the development or having regard to the arrangement of other properties in the estate. The applicant considers that this has resulted in an unnecessary appeal submission and associated costs have been incurred.

The response by Rochdale Metropolitan Borough Council

3. The Council maintains that they have acted reasonably, having determined the proposal in accordance with their Guidelines & Standards for Residential Development Supplementary Planning Document (adopted June 2016). The Council also submits that they have undertaken a proactive and collaborative approach with the applicant and his agent in an attempt to address the alleged harm prior to the Council reaching their final decision.

Reasons

4. It is evident that the Council cited the relevant development plan policies and associated supplementary planning guidance in its decision when seeking to fulfil its duties under section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.
5. The Council maintains that the proposed development would cause harm to the living conditions of No 11, with particular reference to light and outlook which would be contrary to the development plan. However, there is very little evidence presented by the Council to that effect. Indeed, from the evidence before me I find that the assessment and explanation provided by the Council

regarding the effect upon existing light and outlook for No 11 is both generalised and vague in its articulation of the nature and degree of the alleged harm. Furthermore, my own assessment at the site visit has led me to a different conclusion and to find little reason to substantiate the specific concerns cited in the Council's decision.

6. I therefore find that the Council has not adequately substantiated what is described as 'a significant loss of light' and an 'oppressive outlook' for the occupants of No 11. Further, I found no conflict with Policy DM1 of the Rochdale Adopted Core Strategy (October 2016). Accordingly, the Council's decision is not soundly based and is unreasonable.
7. The Council's claims of proactivity and collaboration throughout the course of the planning process has no bearing on my finding in specific relation to the planning merits of the Council's decision.

Conclusion

8. For the reasons given above, I find that unreasonable behaviour from the Council on substantive grounds, as described in the Planning Practice Guidance, is evident. This in turn has caused unnecessary expense in terms of the preparation and submission of the relevant appeal through an appointed agent. Therefore, a full award of costs is justified in this instance.

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 Rochdale Metropolitan Borough Council shall pay to Mr Hoi Kin Lee, 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 Rochdale 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.

C Dillon

INSPECTOR