
Costs Decision

Site visit made on 30 November 2021

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2021

Costs application in relation to Appeal Ref: APP/P4415/W/21/3279031 31 Station Street, Swinton, Mexborough S64 8PP

- 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 Andrew Lockley for a full award of costs against Rotherham Metropolitan Borough Council.
 - The appeal was against the refusal of permission in principle for the conversion of existing building into 2 no. apartments (C3 use) - north site and erection of building comprising 6 no. apartments (C3 use) – south site.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 applicant contends that the Council made fundamental errors in how they have processed the permission in principle application. They have clearly made their decision as if this was a second stage technical details consent, making reference to detailed guidance. This is the third permission in principle application which has allowed the Council to reconsider their position and subsequent amendments have been made to address the refusal reason. Overall, it is clear that the Council has acted unreasonably and if a proper assessment had been made it is likely that the application would have been approved and the appeal avoided.
4. In response, the Council notes that the scope of permission in principle is limited to location, land use and amount of development. In this regard the applicant submitted detailed layouts and elevation plans with the application which aided the assessment of the 'amount of development' proposed. It is acknowledged that the reason for refusal did refer to matters of detail in terms of separation distances and the amount of internal and external living space, however the overriding reason for refusal was due to the proposal resulting in over development of the site – hence the 'amount of development' proposed was not acceptable. The appellant did not enter into early pre-application discussions on any of the applications submitted.
5. It is evident from my decision letter that I concur with the position that the Council has taken in refusing permission in principle in relation to the amount

of development that is proposed. Furthermore, the Council clearly explained its approach and reasoning in its delegated report. Whilst reference was made to detailed guidance and distances, this provides context for the Council's reasoning and does not suggest that it misapplied the relevant legislation relating to permission in principle applications or that without such references the decision would have been different. I acknowledge that previous applications have been made along with amendments, but that does not have any bearing on my finding that the Council's behaviour in how it has determined the appeal application has ultimately not been unreasonable.

6. There has, therefore, been no unreasonable behaviour on the Council's part in terms of how it approached the determination of the application. The appeal could not have been avoided and as a result unnecessary or wasted expense has not been incurred by the applicant in submitting it. Consequently, the application for costs must fail.

Graham Wraight

INSPECTOR