

Costs Decision

Site visit made on 28 February 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2023

Costs application in relation to Appeal Ref: APP/P4415/W/22/3310139 2 Goose Lane, Wickersley, Rotherham S66 1JN

- 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 Habbin Ltd for a full award of costs against Rotherham Metropolitan Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of 2 No. bungalows and erection of 8 No. flats.
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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 (PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process. It adds that local planning authorities are at risk of an award of costs if they behave unreasonably with regard to the substance of the matter under appeal, for example, by failing to produce evidence to substantiate the reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
3. In this case, the planning officer's report to planning board concluded that the proposal would be acceptable in design, scale and appearance, taking the opportunity to provide a key corner building. Yet little evidence was then put forward by the Council to support the reason for refusal to establish why the proposal would be an excessive form of development that would appear visually intrusive within the immediate street scene and general character and appearance of the area. In particular it has not been clearly articulated as to why the appeal scheme should not be treated as a gateway site given its prominent corner location. In respect of the reason for refusal the Council has not demonstrated with any clear evidence how the proposed development would be contrary to the stated development plan policies.
4. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have

been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the National Planning Policy Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.

Conclusion

5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has been demonstrated and that a full award of costs is justified.

COSTS ORDER

6. 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 Rotherham Metropolitan Borough Council shall pay Habbin Ltd, the costs of the appeal proceedings described in the heading of this decision.
7. The applicant is now invited to submit to Rotherham 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.

F Harrison

INSPECTOR