



Costs Decision

Site visit made on 8 March 2023

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2023

Costs application in relation to Appeal Ref: APP/J4423/W/22/3306606 Land adjacent and to the rear of 270 Handsworth Road, Sheffield S13 9BX

- 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 Ravent Limited for a full award of costs against Sheffield City Council.
 - The appeal was against the refusal of planning permission for: 'use of land as car sales forecourt and vehicle storage area (sui generis), including retention of portable building and container, resurfacing works and the erection of an acoustic barrier'.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. Paragraph 49 of the PPG makes clear that local planning authorities are at risk of an award of costs if they prevent or delay development that should clearly be permitted, fail to produce evidence to support each reason for refusal on appeal, or make vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. The applicant's case for a full award of costs is that the Council issued an unsubstantiated refusal contrary to the recommendation of its planning officers.
4. I acknowledge that the Council's Planning Committee determined that planning permission should be refused, contrary to the officers' recommendation. Whilst the Planning Committee is not duty bound to follow the advice of its officers or consultees, if a different decision is reached the Council has to clearly demonstrate why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
5. The Council's reason for refusal clearly sets out its concerns: '*The Local Planning Authority considers that there is inadequate separation between the site and the adjoining residential properties. As such the development will lead to an unacceptable invasion of privacy to the first-floor windows of the affected dwellings. This would result in an unacceptable effect on the living conditions of occupiers of adjoining property. As such the proposal is considered to be contrary to Policy IB9(b) of the Unitary Development Plan and Paragraph 130f) of the National Planning Policy Framework.*'

6. These reasons for refusal are supported by the Council's appeal statement. The Council sets out that the Council Members visited the appeal site and viewed it from the windows of nearby properties before coming to their decision. Even with the provision of a 2.1 metres high fence, they were concerned that some overlooking would occur. As set out in my Decision I am satisfied that the proposed fence would severely limit views of the first floor windows in close proximity to the fence. Furthermore, following its construction, any views of the first floor windows that could be gained further into the site would be at such a distance as to avoid any significant harm to privacy.
7. However, the Council Members were entitled to take a different view as to what would result in harm to privacy. In this regard I note that the Members did not have the benefit of the Site Sections produced by the appellant in support of this appeal. Members did have the benefit of a site visit and notably did not refuse the application on the grounds of noise, an issue which was addressed by a noise survey.
8. I note that the Council had included conditions securing the proposed 2.1 metres high fence as part of its recommendation which the Council Members had sight of before coming to their decision. As such, I am satisfied that the issue of whether the loss of privacy could be addressed by conditions was considered by Members.
9. Having regard to the above, I am satisfied the Members' judgement was exercised reasonably and that the reason for the refusal was not unsubstantiated.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Paul Martinson

INSPECTOR