



Costs Decision

Site visit made on 30 August 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2023

**Costs application in relation to Appeal Ref: APP/C4615/W/23/3321131
Land adjacent to Oak Court, Dudley, Dudley Road, Brierly Hill, Dudley DY5
1LG**

- The award 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 appeal was made by Miss Emma Thompson of Empire Property Concepts Ltd against the refusal of Dudley Metropolitan Borough Council to grant subject to conditions planning permission for student residential accommodation and associated development.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance 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 submits that the Council has acted unreasonably by refusing the application on design based matters, which would have been dealt with either by condition or at reserved matters stage.
4. The Council's Decision Notice outlines four reasons for refusal, but reasons one and two relate directly to design matters that would be considered at reserved matters stage.
5. The planning application was submitted in outline with all matters reserved. Notwithstanding the illustrative drawings submitted with the planning application, consideration of the precise access, appearance, landscaping, layout and scale are reserved for future consideration. The Council retains control over these elements as and when determination of these matters are sought. The Council retains the power to refuse proposals submitted at reserved matters stage, should they find it unacceptable.
6. As such, I find that the Council's concerns in respect of scale and layout, and which were essentially made on the basis of plans submitted for illustrative purposes only leads me to the conclusion that the Council has not substantiated the reasons for refusal in respect of these matters with any clear evidence.
7. For the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the first and second reason for refusal and a partial award of costs is therefore warranted.

Costs Order

8. 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 Dudley Metropolitan Borough Council shall pay to Miss Emma Thompson of Empire Property Concepts Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in respect of the design related reasons for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Dudley 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.

B Thandi

INSPECTOR