The Planning Inspectorate

Costs Decision

Site visit made on 18 March 2024

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22ND MARCH 2024

Costs application in relation to Appeal Ref: APP/P4225/C/23/3329801
Land known as Castleton Service Station, Manchester Road, Rochdale OL11 3AD

- The application is made under the Town and Country Planning Act 1990 (the Act), sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Rochdale Metropolitan Borough Council for a full award of costs against Global Tyre Recycling Limited.
- The appeal was against an enforcement notice alleging without the benefit of planning permission, a material change of use of the land from the sale of motor vehicles (Sui Generis) to a mixed use comprising tyre storage, processing (including shredding and baling), and export, and tyre sales and fitting (Sui Generis) facilitated by operational development consisting of the erection of a single storey rear extension to house a baling machine (shown hatched in red on the Plan).

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, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.

3. The Council's claim for a full award of costs is based on the appellant providing no factual basis to support the grounds (a) and (g) appeals. In fact, the appellant did not submit a statement of case or any final comments. The only comment made by the appellant in respect of the ground (a) and (g) appeals is the *'appellant is doing Tyre Recycling Business and submitted a questionnaire already to the Council. The appellant was not aware that appellant need to apply for change of use application. Appellant is now planning to apply for planning permission so appellant need more time for that'.*

4. The evidence is that prior to the notice being issued, the occupier/owner of the site was aware of the need to submit a planning application. The appellant submitted a deemed planning application (i.e., ground (a) appeal) as part of the enforcement notice appeal. In this context, the comment supporting the appellant's ground (a) appeal was not reasonably made.

5. Furthermore, an appeal made under ground (g) is that the period specified in the notice in accordance with s173(9) of the Act falls short of what should reasonably be allowed. The above comment made by the appellant was also

included as the sole reason for lodging the ground (g) appeal. This is not a valid ground (g) appeal matter in the context that a deemed planning application (i.e., ground (a) appeal) was considered as part of the enforcement notice appeal.

6. In addition to the above, the appellant has not reasonably substantiated why the development would be acceptable in planning terms in the context of the development plan for the area. It was open to the appellant to prepare a statement of case and/or to respond to the Council's statement of case and representations made by other interested parties as part of final comments. The appellant opted not to do this. The appellant has not provided any reasonable or objective evidence to counter the reasons for issuing the notice. In this case, I do not find that the appellant has reasonably substantiated why the grounds (a) and (g) appeals were lodged.

7. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

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 Global Tyre Recycling Limited shall pay to Rochdale Metropolitan Borough Council the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Centre if not agreed.

9. The applicant is now invited to submit to Global Tyre Recycling Limited, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

D Hartley

INSPECTOR