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## Costs Decision

Site visit made on 11 February 2025

by **S Burch BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 March 2025

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**7 Rotary Close, Houlton, Rugby, Warwickshire, CV23 1ES**

**Costs application in relation to Appeal Ref: APP/E3715/D/24/3348758**

- 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 & Mrs Tew for a full award of costs against Rugby Borough Council.
- The appeal was against the refusal of planning permission for the installation of Georgian style black steel double driveway gates.

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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. Unreasonable behaviour on the part of a local planning authority may include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, acting contrary to, or not following, well-established case law, or not determining similar cases in a consistent manner.
4. The applicant firstly argues that as the Council confirmed the proposal's compliance with policies in the Rugby Borough Council Local Plan 2011-2031 (2019) (the Local Plan) and Section 9 of the National Planning Policy Framework (the Framework), the proposal should have been granted planning permission. Paragraph 5.5 of the case officer report however clearly states that the application is considered to be contrary to policy SDC1 of the Local Plan. Paragraph 9.1 of the case officer report also states that the application is considered to be contrary to policy SDC1 of the Local Plan and the Framework. The decision notice similarly states the application's conflict with the Local Plan and the Framework.
5. The applicant also contends that the Council's assessment of the application, including the appeal sites context and character, the design, function and purpose of the gates and their impact on visual amenity and the variety in architecture and boundary treatment within the area is flawed, inaccurate and unsupported. I however consider that the Council has satisfactorily set out its reasoning for reaching a different conclusion to that of the appellant in the case officer report.
6. The applicant's view is that the Council have failed to attribute any weight to their security needs. I agree that this is the case. However, whilst failing to address this may be considered unreasonable, I am not satisfied that it has resulted in the

unnecessary or wasted expense of the appeal given the harm identified by the Council.

7. The final claim is that the Council failed to have due regard to a recent appeal decision referred to at application stage that considered the same issues. It was unreasonable of the Council not to explicitly consider this decision. However, each application is assessed on its own merits. In this case, it is clear that from the strength of the Council's reasoning that even if the appeal decision had been taken into account it is likely that planning permission would still have been refused necessitating the expense of the appeal.
8. I have found in my appeal decision that the proposal does not have a harmful effect on the character and appearance of the area. However, this was a matter of planning judgment, and through its reasons for refusal and officer report the Council has provided sufficiently respectable evidence to substantiate its objection to the development. While I do not agree with the Council's conclusion, I therefore do not consider that it acted unreasonably in refusing permission.

### **Conclusion**

9. For the reasons given above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. An award of costs is therefore not warranted.

*S Burch*

INSPECTOR