



Costs Decision

Site visit made on 1 July 2020

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 6 October 2020

Costs application in relation to Appeal Ref: W/4000721 Scorton, 9 Lime Tree Close, East Preston BN16 1JA

- 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 Marmont Developments for a full award of costs against Arun District Council.
 - The appeal was against the refusal of planning permission for planning permission for demolition of existing dwelling and the erection of seven residential dwellings, with associated parking, amended access location from Lime Tree Close & landscaping without complying with a condition attached to planning permission Ref APP/C3810/W/18/3214864, dated 13 March 2019.
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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 advises that costs may be awarded where a party has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The Appellant submits that the Council has acted unreasonably in that it has gone against the advice of its professional officers without good reason and failed to substantiate the objection on the grounds of harm to highway safety.
5. Whilst the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate this reasoning. In this case, highway officers concluded that there would be adequate parking available on-street to accommodate the development, and they accepted the general findings of the Appellant's parking survey and other evidence provided as part of the application. As such, the opinion of the professional officers, based on the evidence put forward, was that there would not be harm to highway safety as a result of the development.

6. However, little evidence has been put forward to support the reason for refusal which has been determined based on local knowledge. Whilst I accept that the site is near to a local school, no technical evidence has been submitted to demonstrate that the additional level of on-street parking would be detrimental to highway safety in this regard. Accordingly, alleged harm to highway safety has not been substantiated in this instance.
7. It appears to me that having regard to the provisions of the development plan, National Planning Policy Framework and other material considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the basic guidance and the appellant has been faced with the unnecessary expense of lodging the appeal.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. 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 Arun District Council shall pay to Marmont Developments, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Arun District 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.

J Ayres

INSPECTOR