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## Costs Decision

Site visit made on 9 October 2020

**by R Morgan MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 November 2020**

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### **Costs application in relation to Appeal Ref: APP/G4240/W/20/3255343 Land surrounding 1 The Winnows, Denton, Tameside M34 3QR**

- 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 DMC Carpentry and Construction Ltd for a full award of costs against Tameside Metropolitan Borough Council.
  - The appeal was against the refusal of planning permission for the erection of an office block (Use Class B1) with associated access and parking.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (the Guidance) 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. Unreasonable behaviour by a local planning authority may occur in relation to the appeal procedure or to the substance of the case. In this case, the applicant contends that the Council has behaved unreasonably in both respects.
3. It is clear from the evidence provided that the planning officer raised concerns during the application process which the applicant sought to address. Although the applicant may not have agreed with the Council's concerns, it appears that the Council did adopt a helpful and co-operative approach during its consideration of the application. I have been presented with no evidence of unreasonable behaviour on procedural grounds.
4. The applicant contends that the Council acted unreasonably by failing to take account of material considerations which could have affected its decision, in particular the mixed use character of the area, and the previous approval for an office use on the site.
5. The Council considered the proposal primarily in relation to the residential development adjacent to it, as this was clearly felt to be the most important element in determining the character of the area. This was a matter of planning judgement, but the surrounding employment development was not ignored or overlooked. The officer report and statement explain why the Council considered that the scheme would cause harm to the character of the area, including the relationship with the nearby employment development.

6. The Council did not object to the principle of office development on the site, and acknowledged the previous planning permission. That permission was granted some time ago and has now lapsed, so has limited weight in current decisions affecting the site. Nonetheless, the Council clearly explained why the previously approved scheme differed from the current proposal, in terms of its size and scale, and the potential impacts on neighbouring properties.
7. On the basis of the above, I am satisfied that the Council took adequate account of these considerations in determining the application.
8. The Guidance makes it clear that a local planning authority is at risk of an award of costs if it makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. For the reasons set out in the appeal decision, I do not agree with the Council's conclusions about the effect of the development on either the character of the area or the occupiers of 71 Windmill Lane. However, I found the reasons for refusal to be clear, with adequate explanation as to why the Council came to the conclusions it did, backed up by relevant development plan policies. The Council explained that, in terms of the relationship with 71 Windmill Lane, the proposal did not meet the standards set out in its employment land SPD. It was justified in refusing the application on that basis.
9. I have found no evidence of unreasonable behaviour relating to the substance of the proposal. Furthermore, for the reasons set out in the appeal decision, I agree with the Council's concerns in relation to the effect on 1-4 The Winnows. As such, the appeal, and any associated costs, were not avoidable or unnecessary.
10. I conclude that unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, an award of costs is not justified and the application for costs is refused.

*R Morgan*

INSPECTOR