



Statement: Application for The Award of Full Costs

Section 78 Town and Country Planning Act 1990: Appeal Against the Refusal of Full Planning Permission by Rochdale Borough Council for the conversion of basement area within existing apartment building to create one self-contained dwelling at 20 Mellalieu Street, Middleton, M24 5DN. (application ref: 23/01296/FUL)

On behalf of Mr Neil Allen

March 2024

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Rev	Date	Author	Reviewed	Approved
1	18/03/2024	Charly Wilson	Mike Stone	-
2	22/03/2024	Charly Wilson	Mike Stone	Mike Stone

1.0 Introduction

- 1.1 This statement sets out the Appellants case for an award of full costs. The Statement has been prepared by Charly Wilson of Origin Planning Services Ltd (the “Agent”) on behalf of Mr Neil Allen (the “Appellant”), in relation to an appeal against the decision of Rochdale Borough Council (the “LPA”) to refuse Full Planning Permission for the proposed conversion of basement area within existing apartment building to create one self-contained dwelling at 20 Mellalieu Street, Middleton, M24 5DN.
- 1.2 The Planning Application now subject to this appeal was made valid by Rochdale Borough Council on 8th December 2023 (ref: 23/01296/FUL). The application was refused by the planning officer on 22nd February 2024
- 1.3 The Planning Practice Guidance (the Guidance) advises that costs may be awarded where:
- A party has behaved unreasonably; and
 - The unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
- 1.4 “Unreasonable behaviour” in the context of an application for an award of costs is defined as either:
- Procedural (in relation to the process); or,
 - Substantive (in relation to issues, which arise from the merits of the appeal proposal).
- 1.5 This application seeks a substantive award of costs against the Local Planning Authority.
- 1.6 This statement sets out clearly that the unreasonable behaviour of Rochdale Borough Council as the local planning authority has resulted in unnecessary expense being incurred by the Appellant. The application of costs is specifically for the expense of this appeal, and the additional assessments, but not costs of any documents submitted during the course of the original planning application.
- 1.7 A copy of the Council’s decision notice has been provided with the appeal documentation. A copy of the Council’s Planning Officers report is provided in **Appendix 1** of the Appellant’s Appeal Statement of Case submitted with this appeal.

2.0 Reasons for Refusal

- 2.1** The Planning Application now subject to this appeal was made valid by Rochdale Borough Council on 8th December 2023 (ref: 23/01296/FUL). The application was refused by the planning officer on 22nd February 2024.
- 2.2** The following reasons were cited:
1. The proposed flat would give rise to an unacceptable level of residential amenity for the future occupant due to a lack of natural light and outlook to habitable rooms within the flat. The proposal therefore fails to accord with policy DM1 of the adopted Rochdale Core Strategy, the Council's 'Standards and Guidelines for Residential Development' SPD and the National Planning Policy Framework.
- 2.3** A copy of the Council's decision notice has been provided with the appeal documentation. A copy of the Council's Planning officers report is provided in **Appendix 1**.

3.0 Unreasonable Behaviour

- 3.1 Planning Practice Guidance (the Guidance) on the appeal procedures for the award of costs is clear that the Local Planning Authority's handling of an application prior to the appeal can lead to an award. This is referred to as a **substantive award**.
- 3.2 Paragraph 030 of the Guidance advises that where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. It also indicates that one of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, and not to add to development costs through unavoidable delay.
- 3.3 Paragraph 049 of the Guidance sets out a number of examples of the type of behaviour that may give rise to a substantive award against a local planning authority. The Appellant considers that a number of these apply, including.
- a failure to produce evidence to substantiate each reason for refusal on appeal;
 - vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by objective analysis.
- 3.4 The appeal proposal had been subject to significant amendments following an originally withdrawn planning application (ref:23/00545/FUL). The original proposals were not looked upon favourably by officers and requested the applicant withdraw the application and re-submit an improved scheme. The applicant then proceeded to follow this advice withdrawing the application in October 2023 and making the necessary changes to the proposed development before re-submitting a new application in December 2023 (ref: 23/01296/FUL).
- 3.5 Following further consultation and liaison with the planning officer on the new application, further changes were still requested. Once again, the plans were then further revised by the applicant and submitted for re-consultation in February 2024. The applicant was at this point under the impression that all requested changes had been made and the application was now in a position to be looked upon favourably. Unfortunately, this was not the case and the application was refused on the 22nd of February 2024.
- 3.6 As demonstrated above, the applicant was clearly very welcoming of the planning officer's recommendations and made amendments to the scheme were requested. The need for the withdrawal and re-submission of the application alongside the numerous revisions was at the expense of the applicant and was done with the impression this would result in an approved scheme. It is therefore deemed that the LPA have caused unnecessary costs by requesting these changes, yet still refusing the application.
- 3.7 In view of the above, the Appellant respectfully request that the Inspector finds that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the Guidance, has been demonstrated and that a full award of costs is justified.
- 3.8 We reserve the right to update this submission should we find that the LPA has continued to act unreasonably during the appeal process.