
Costs Decision

Site visit made on 14 March 2017

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 April 2017

Costs application in relation to Appeal Ref: APP/V2825/W/16/3165918 Former Factory Premises, rear of 26 Lorne Road, Northampton NN1 3RN

- 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 M Hussain for a partial award of costs against Northampton Borough Council.
 - The appeal was against the refusal of planning permission for change of use from factory premises (Use Class B2) to four (4x) self-contained 1-bedroom residential apartments (Use Class C3) and extension to external staircase landing and additional railings.
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Decision

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

Procedural Matter

2. I have used the Council's description of the development in reaching my decision as it more fully describes the details of the development than that given on the original planning application form. The appellant's appeal form also makes reference to the updated description. I shall determine the appeal on this basis accordingly.

Reasons

3. 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.
4. The appellant's application for an award of partial costs is based on the unreasonable behaviour of the Local Planning Authority (LPA) resulting in unnecessary or wasted expense in the appeal process. The appellant states that the LPA introduction of Conservation objections constitutes a fresh and substantial evidence at a late stage necessitating extra expense for the appellant which otherwise would not have arisen¹. Whilst the appellant acknowledges that the Council's case does not involve a Conservation objection, the appellant nevertheless considers the Council's procedures have led him to carry out additional work which was unnecessary and constitutes unreasonable behaviour.

¹ PPG Paragraph 047 ID 16-047-20140306

5. I note, however, that the Council's Conservation Officer (CO) made comments at both the planning application and appeal stage, which I consider reasonable given the appeal building's location in the Boot and Shoe Quarter Conservation Area (CA). Special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the area.
6. The LPAs delegated officer report considered the CO comments prior to making a decision and the reason for refusal has been adequately substantiated by the Council in its officer's report. The officer's report and the LPA appeal statement demonstrates the Council's view as to whether the proposal would preserve the character or appearance of the CA, using the evidence and other material considerations submitted by the appellant, third party representations and the Council's observations.
7. The LPA's submission and supporting evidence clearly shows that the Council actively engaged with the appellant during the pre-application and application process and carried out their duty to assess the development proposal as submitted.
8. It will be seen for the reasons set out in my appeal decision, I concur with the Council on this case that there were sufficient grounds for dismissal relating to the harm caused by the proposed development to the living conditions of the future occupants of the proposed apartments and occupiers of the neighbouring properties. I also share the view that the development would preserve the character and appearance of the CA. I came to that decision based on my consideration of the details and merits of the development, having regard to all the evidence and other matters raised. Accordingly, I consider that the Council has shown that it followed the appropriate procedures on the above matters and cannot agree that the Council has acted unreasonably in this case.
9. I therefore find that unreasonable behaviour by the Local Planning Authority resulting in unnecessary or wasted expense which would lead to an award of costs, as described in the PPG, has not been demonstrated.

David Troy

INSPECTOR