
Costs Decision

Site visit made on 5 January 2021

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 25th January 2021

**Costs application in relation to Appeal Ref: APP/L2820/W/20/3259316
18 Elm Road, Burton Latimer NN15 5NF**

- 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 Shaun Langley of Concept Developments SK Ltd for a full award of costs against Kettering Borough Council.
 - The appeal was against the refusal of planning permission for 2 storey dwelling.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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.
3. The planning application was refused by the Council's Development Control Committee (DCC), contrary to the officer's recommendation for approval. Whilst the DCC were not bound to accept the officer recommendation, the PPG states that examples of unreasonable behaviour by local planning authorities that risk an award of costs 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 reason for refusal set out in the decision notice is complete, precise, specific and relevant to the application. The Council's Statement also clearly states the policies of North Northamptonshire Joint Core Strategy 2011 – 2031 Adopted June 2016 (CS) that the proposal would be in conflict with, in the view of the Council.
5. Given the proximity of No 16 Elm Road (No 16) to the appeal site, and height of the proposal, the Council had reasonable concerns regarding the impact of the proposal, particularly on the kitchen window of No 16. The planning officer's report and the Council's appeal statement discussed the Daylight and Sunlight Report submitted by the appellant which sets out that while the room passes the daylight distribution test, the window serving the kitchen of No 16 does fall somewhat short of the guidance. As such, the Council has not behaved unreasonably in this respect.

6. With regard to the second reason for refusal, given the unified character and appearance of the area, the Council had reasonable concerns regarding the proposed design which were clearly articulated in the Council's statement of case.
7. Accordingly, I consider that the Council has not failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision.

Conclusion

8. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

R Sabu

INSPECTOR