



Costs Decision

Site visit made on 24 March 2021

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 10 May 2021

Costs application in relation to Appeal Ref: APP/L2630/D/20/3264298 The Bungalow, Howe Lane, Brooke NR15 1HH

- 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 Robert Neil for a full award of costs against South Norfolk Council.
 - The appeal was against the refusal of planning permission for extension and build new garage; and change to clad existing brickwork, reduce size of garage door and changes to fenestration without complying with conditions attached to planning permission 2018/2290, dated 11 December 2018.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) 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 or wasted expense in the appeal process.
3. The PPG makes clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and not on *'vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.'*¹
4. 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 that reasoning. The applicant states that the Committee overturning the Council Officer's professional opinion represents unreasonable behaviour by the Council, particularly the consideration of the effect of the roof tiles which were not part of the planning application.
5. I agree that the Council (and its professional officers) did introduce matters such as the roof tiles which were not part of the original planning application and that this was unreasonable for them to do so. However, it appeared that the intention was to regulate the differences between the existing approved plans and what was part of the new application which sought to alter elements that were previously approved. Additionally, the PPG in awarding costs seeks to

¹ PPG, 049 Reference ID: 16-049-20140306, Dated 06 03 2014

understand two issues, first that being whether the party has acted unreasonably, and second whether this has resulted in unnecessary and wasted expense. The applicant mentions their disagreement of the Council considering the roof tiles, and that it has caused them distress however based on the evidence before me, I do not consider that this has led to unnecessary and wasted expense.

6. It is clear that when Councillors were assessing the scheme during the Committee Meeting, that in their mind considering the evidence before them, which included local knowledge, that they disagreed with officer responses and sought that the scheme would be harmful to the character and appearance of the locality.
7. Accordingly, I find that the Council did not fail to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. The Council had reasonable concerns about the impact of the proposed development which justified its decision.
8. Whilst I believe the Council did behave unreasonably in the wording of the reason for refusal which included the consideration of roof tiles, I do not feel that the amount of work that the applicant undertook in response resulted in a substantial amount of time which would have resulted in unnecessary and wasted expense.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

J Somers

INSPECTOR