
Costs Decision

Site visit made on 14 March 2022

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2022

Costs application in relation to Appeal Ref: APP/M2840/W/21/3286088 119 High Street, Rushden NN10 0NZ

- 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 Neil Briggs for a full award of costs against North Northamptonshire Council.
 - The appeal was against the refusal of planning permission for conversion and extension of store to the rear of shops at No 119 High Street Rushden to form a single dwelling within Class C3.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice 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 or wasted expense in the appeal process.
3. The applicant alleges that the Council behaved unreasonably by persisting with objections to a scheme which an Inspector had previously indicated to be acceptable.
4. In this instance, I have been made aware of a June 2021 appeal decision¹ that relates to proposed development of the same description to that now being considered. The previous Inspector found the principle of development to be acceptable and, having acknowledged the presence of existing flats at the site and considered local parking pressures, identified that the scheme would not adversely affect the character or infrastructure of the area and that highway safety would not be prejudiced. Indeed, he observed that the proposed development would be well concealed and that, due to its design and scale, the proposed addition would relate suitably to the site's existing outbuilding.
5. He also found that unacceptable living conditions would not result for future occupiers, including in terms of access to either outlook or light, that the viability of the town centre would not be detracted from, and that lighting could be improved along the passageway that provides access in the interests of safety. In the context just described, it was unreasonable for the Council, in October 2021, to impose each of its reasons for refusing planning permission.

¹ APP/G2815/W/21/3269221

6. Whilst a revised version of the National Planning Policy Framework was published in July 2021, whereby a greater emphasis upon beauty and place-making was established, its contents and design-based aspirations did not fundamentally alter. In any event, the development plan remains the starting point for decision-making and no development plan policy has been relied upon by the Council (when refusing planning permission) that had not been adopted when the previous Inspector made his decision.
7. I therefore find that, by persisting with objections upon matters previously identified to be acceptable, unreasonable behaviour resulting in unnecessary expense during the appeal process has been demonstrated. Thus, having had regard to all matters raised, a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that North Northamptonshire Council shall pay to Mr Neil Briggs the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to North Northamptonshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Andrew Smith

INSPECTOR