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## Costs Decision

**by K Winnard LL.B (Hons) Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 August 2022.**

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**Costs application in relation to Appeal Ref: APP/G1630/D/22/3299713  
Glanharfren 7 Oldbury Road Tewkesbury Gloucestershire GL20 5NA**

- 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 Miss Samantha Snape for an award of costs against Tewkesbury District Council
  - The appeal was against the refusal of replacement windows.
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### Decision

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

### Reasons

2. The Planning Practice Guidance advises that irrespective of the outcome of the appeal, 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.
3. The appellant makes reference to the Planning Practice Guidance and the examples of behaviour which may give rise to an award of costs against a local planning authority. Unreasonable behaviour can relate to procedural matters (ie the application process) or substantive matters (ie. issues related to the planning merits of the appeal). The crux of the applicants' case in seeking an award of costs relates to substantive matters. In particular that the Council has ignored the planning history of the property and the public benefits associated with the application, and that they have failed to determine the application in a positive and proactive way.
4. The Council disputes that it has acted unreasonably with regard to determination of the application. It indicates that its objections were based upon the responses of statutory consultees and that efforts were made with the appellant to attempt to find a suitable solution.
5. Unreasonable behaviour can only result in an award of costs if unnecessary or wasted expense has occurred. Although council officers did not physically inspect the sample window which had been made available, photographs of the windows were received. I consider it therefore unlikely that an inspection of the windows could or would have obviated the appeal. The officer report indicates the position in relation to the planning history of the pair of semi-detached buildings and the concerns as to the proposal. The weight the Council gave to

the consideration of harm to the character and appearance of the building and surrounding area are matters of planning judgment.

6. The Council's report does not go into any details about the public benefit of the proposal. However, I am not persuaded that costs should be awarded on this basis. The Council had clear concerns over the replacement windows and this is not a case where the Council has prevented or delayed development which clearly should be permitted having regard to its accordance with the Development Plan, national policy and any other material considerations. Further, as it can be seen in my main decision, I also find harm in relation to the main issue in this appeal. I have come to that decision on the basis of my consideration of the merits of the scheme having regard to all the evidence submitted.
7. Accordingly I do not consider that the Council failed to properly evaluate the application or consider the merits of the proposal. Therefore the appeal could not have been avoided. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the application for an award of costs is refused.

*K Winnard*

INSPECTOR