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## Costs Decision

Site visit made on 18 October 2022

**by G Bayliss BA (Hons) MA MA MRTPI IHBC**

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

**Decision date: 11 November 2022**

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### **Costs application in relation to Appeal Ref: APP/J0540/W/22/3294694 17 Crowland Road, Eye, Peterborough, Cambridge PE6 7TP**

- 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 Desmond Jarvis (PSSC Window Film Ltd) for a full award of costs against Peterborough City Council.
  - The appeal was against Condition 10 of Planning Permission Ref 21/00477/FUL, which states that *"The space within the building hereby approved labelled 'Workshop', on the approved drawing no.4690/2 shall be used solely for the application of window tint to motor vehicles, and the other spaces within the building hereby approved labelled 'Store' and 'Office' and 'Reception' shall remain ancillary uses for the window tinting use."*
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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. Paragraph 049 of the Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities 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 appellant states that the Council defied the planning officer and called-in the planning application to committee and the Council have acted unprofessionally and unreasonably, causing unnecessary expense.
5. Without specific information regarding the substance of the appellant's claim for costs, it is difficult to find that the Council has behaved unreasonably. It is apparent to me, however, that based on the evidence before me, throughout the consideration of the planning application the Council made it very clear that the proposed use would need to be tightly controlled to protect the living conditions of the surrounding occupants and in the interests of highway safety. Despite the amount of time taken to determine the application, I can see that the planning officer and planning committee members worked closely with the applicant to allow the development proposed, but the conditions and Unilateral Undertaking were necessary to make the development acceptable within this area. I also note that the planning officer revised Condition 10, at the request

of the appellant, to remove a personal restriction and instead to limit the use to window tinting purposes only which would allow flexibility for others to operate the business.

6. I have concluded in my decision that Condition 10 is reasonable and necessary in order to protect the living conditions of neighbouring occupants. The reason for the condition, set out in the decision notice is complete, precise, specific and relevant to the permission. It also clearly states the policies of the Peterborough Local Plan that the condition would be related to. I have also concluded that the Council was right to refuse the proposed variation of Condition 10 to change this to Class E uses as it would substantially remove the tight control that the development requires to make it acceptable in this area.
7. Accordingly, I do not consider that the Council has acted unprofessionally and unreasonably in this matter and the appeal could not have been avoided. The Council had reasonable concerns about the impact of the development which justified its decision. Although I understand the applicant's evident frustration with their perception of the Council's approach, insofar as is relevant to this costs application, based on all the evidence before me, I find that no action, or inaction, taken by the Council amounts to unreasonable behaviour as described in the PPG, directly resulting in unnecessary or wasted expense at appeal. Therefore, an award of costs is not justified.

*G Bayliss*

INSPECTOR