



Costs Decision

Hearing Held on 23 November 2022

Site visit made on 23 November 2022

by Zoë Franks, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 09 December 2022

Costs application in relation to Appeal Ref: APP/F2415/C/22/3292748 Unit 1, Rolleston Lodge Business Centre, Harborough Road, Rolleston, LE7 9EL

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Northern Cobbler Retail Limited for a full award of costs against Harborough District Council.
 - The hearing was in connection with an appeal against an enforcement notice alleging failure to comply with condition 3 of permission 16/01478/FUL.
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Decision

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

Main Issue

2. Planning Practice Guidance advises that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. The applicant's case is that the Council made their decision to issue the notice based on vague, generalised or inaccurate assertions about the proposal's impact which are unsupported by any objective analysis, and by acting contrary to, or not following, well-established case law.
4. The Council says that it did not act unreasonably as its position with regard to the highway issues was clearly stated in the appeal statement and previous pre-application advice. It fundamentally disagrees with the appellant's case that Condition 3 did not limit the use of the property to its specified use within its new use class.

Reasons

5. The wording of Condition 3 in this appeal is very similar to that found in previous well-established case law. The appellant clearly explained this in their statement of case, and the case law was the reason for my decision to quash the notice under ground (c). The Council should have followed this case law, and by not doing so acted unreasonably which directly caused the appellant to incur unnecessary expense in the appeal process. Unnecessary expense was incurred in relation to all of the grounds pleaded by the appellant as the costs

associated with grounds (a), (f) and (g) were wasted in that the appeal succeeded wholly on ground (c).

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

7. 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 Harborough District Council shall pay to Northern Cobbler Retail Limited, 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.
8. The applicant is now invited to submit to the 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.

Zoë Franks

INSPECTOR