



Costs Decision

Site visit made on 9 October 2023

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2023

**Cost application in relation to Appeal Ref: APP/M2840/D/23/3327626
Lindisfarne, Wakerley Road, Harringworth, Northamptonshire, NN17 3AH**

- 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 S Lindsell for a full award of costs against North Northamptonshire Council.
 - The appeal was made against the refusal of planning permission for 'Remodelling existing property with Double Storey Side and Front Extension, Single Story Front Extension and Orangery to the rear'.
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Decision

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

Reasons

2. The government's Planning Practice Guidance (PPG) states that 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. Paragraph 49 of the PPG details the type of behaviour that may result in a substantive award of costs. I will deal with each of the Applicant's grounds in turn.

a) Not determining similar cases in a similar manner

3. The Council's planning officer's report indicated that the previously allowed developments elsewhere in the Conservation Area (CA) were not particularly close to the appeal site and it was to be determined on its own merits. My decision refers in detail to significant differences between those developments and this proposal and/or site context and explained why they do not set a precedent for the harm that would be caused in this case. I therefore find no evidence that there was unreasonable behaviour on this ground.

b) Preventing development which should have clearly been permitted

4. The Council's Conservation Officer advised that they did not wish to make any comments regarding the scheme. The reasons for that stance have not been provided but it does not necessarily indicate support for the scheme either. In any case, even if there were no objection from the Conservation Officer, planning officers are entitled to disagree with the views of their consultees if they have good reason and in this case, the officer's report detailed why the proposal would cause harm to the CA.

5. Whilst the officer's report referred to the East Northamptonshire Council Householder Extensions Supplementary Planning Document (SPD) in regard to residential amenity (living conditions), the report did not provide any more detail and as policies 1 and 8 of the Core Strategy covered that matter, I did not rely on it. Furthermore, there was no reference to the SPD in that report in regard to the effect on the CA. I disagree, therefore, that undue weight was placed upon the SPD by the Council and the appellant's statement does not refer to it either.
6. My decision explains why I agreed with the Council that the development should not be allowed and I find that there was no unreasonable behaviour on this ground.

c) Vague, generalised and inaccurate assertions about a proposals impact

7. Although my decision goes into some detail regarding the differences between the proposal and the other examples referred to by the Applicant, it was not necessary for the planning officer to do so because those examples are not particularly close to the appeal site as explained in the officer's report and the proposal's impact on the CA was correctly assessed on its own merits.
8. The planning officer's report referred to the 'height, depth and bulk' of the proposal, that it was 'not subservient or in scale with the current property and would instead dominate the existing dwelling'. It also referred to the 'surrounding area of single and two storey dwellings', that the development would 'enclose the gap' and that the existing dwelling is 'not completely out of scale with surrounding properties'.
9. The report also referred to the direction in which the proposed development would face and its impact on the rear amenity space of the neighbouring dwellings.
10. Whilst I disagreed with the Council in regard to the enclosing of the gap, assessed the proposal as a remodelling rather than an extension and found that there would be no significant harm in terms of overlooking, the reasons given in the officer's report and the decision notice were sufficiently detailed. I find, therefore, that there was no unreasonable behaviour on this ground.

d) Refusing an application on the basis of a detail that could be dealt with by condition

11. In regard to the effect on the living conditions of the neighbouring occupiers, the Council's report says that 'the proposed balcony therefore in the absence of a 1.7m balcony screens would cause overlooking'. It seems that the Council would have been satisfied with a 1.7m balcony screen but it failed to consider whether a condition for that could overcome the harm it identified.
12. That led to a small amount of additional work for the Applicant in defending that reason for refusal and I find that on this ground there was unreasonable behaviour by the Council, although the need for the appeal could not have been avoided given that there was another reason for refusal.

Conclusion

13. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice

Guidance, has been demonstrated in regard to ground d) only and that a partial award of costs is justified.

Costs Order

14. 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 S Lindsell the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in ground d) only; such costs to be assessed in the Senior Courts Costs Office if not agreed.
15. The applicants are 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.

Sarah Colebourne

Inspector