



Costs Decision

Site visit made on 17 October 2023

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2023.

Costs application in relation to Appeal Ref: APP/X2220/W/23/3315597 Flat 4, 2-3 Belgrave Court, The Beach, Walmer CT14 7HE

- 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 Williams for a full award of costs against Dover District Council.
 - The appeal was against the refusal of the Council to grant planning permission for the installation of 3 No. 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 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.

The Application

3. It is clear from the information submitted that the windows that are to be replaced are no longer fit for purpose and do not provide any protection or energy efficiency to the dwelling. An application for UPVC windows had been previously applied for, and an appeal against non-determination dismissed on the basis that UPVC was out of keeping with the area and would result in harm to the conservation area.
4. The appellant took this on board and reapplied for white painted timber sash windows and casements which are a direct like for like replacement. Nevertheless, this proposal has also been refused based upon the character and appearance of the conservation area. This begs the question as to what the council would accept in this location, as anything other than white timber would stand out like a sore thumb.
5. The application therefore clearly should have been approved and the appellant has been put to the unreasonable cost of having to appeal: the expense of the appeal following incorrect advice in writing from the council.

The Rebuttal

6. Prior to refusing the application, the applicant was telephoned by the case officer and advised of the intention to refuse the application. Advice was also given of the full range of options at that stage, including receiving the refusal

notice so that an appeal could be made, or amending the scheme. It is recollected that, during this conversation, the appellant expressed an interest in amending the scheme and asked the case officer to put a suggested way forward in writing.

7. The council sought to assist the appellant in achieving a positive outcome by advising that bespoke windows replicating the existing in form, profile, and proportions were likely to be considered acceptable, and provided the names of builders who offer such a bespoke service. However, the appeal was submitted.
8. The case officer's report provides a thorough assessment of the scheme, detailing the relevant planning policies and guidance and listing the consultation comments received as part of the application, before commenting on each of the material considerations pertinent to the assessment of the scheme. Thus the council has acted reasonably in presenting full and detailed evidence to support its case, and requests that this application for an award of costs is dismissed.

Conclusions

9. The council has presented a persuasive case in respect of its refusal of permission; one that I have accepted as set out in my decision on the appeal. Therefore the council has not behaved unreasonably or caused the claimant to incur unnecessary or wasted expense in the appeal process. Furthermore, the council did not reject white timber windows, but decided that the design and form of the proposed windows was unsuitable for the reasons expressed in the refusal notice.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Terrence Kemmann-Lane

INSPECTOR