



Costs Decision

Site visit undertaken on 26 January 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 9 February 2024

Costs application in relation to Appeal Ref: APP/M2840/D/23/3333266 1 Harrowden Road, Wellingborough NN8 5BJ

- 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 and Mrs Asif against the decision of North Northamptonshire Council.
 - The appeal was against the refusal of planning permission for Proposed replacement windows and rear door.
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Decision Costs Application:

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 has put forward three grounds for unreasonable behaviour in this costs decision which relate to both procedural elements (relating to the process) and substantive (relating to the issues arising from the merits of the appeal). I turn to the grounds below.
4. The first ground relates to the failure of the Council to present the Appellant with a copy of the original Article 4(2) direction, with the Council only providing a guidance note relating to the direction. As discussed within the Appeal Letter, a Section 78 appeal process is not the correct place to seek resolution as to this issue. As such I cannot pursue this ground any further. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this ground.
5. The second ground two relates to the Council having made its decision in error as the Appellant feels that it was an incorrect approach to refuse an application on the grounds of materials being utilised. Policy 2 of the North Northamptonshire Core Strategy specifically relates to materials and that materials will be a consideration in judging whether a proposal is appropriate and additionally is a consideration as to how a proposal relates to its context and local character as per JCS Policy 8. Materials are also discussed within the CA Appraisal which is also a material consideration to the decision. Additionally, having read the Officer Report I do not come to the same conclusion as the Appellant that the Council report suggests that the doors and windows 'will

appear the same or similar.’ The Council were well within their duty to refuse the application based upon the materials used. Consequently, there is no information before me that would demonstrate that the Council has behaved unreasonably in this respect. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this ground.

6. The third ground relates to the balancing exercise performed by the Council in that the Appellant considers that not enough weight was given to the environmental benefits of the scheme. I agree that the Officer Report does not specifically detail the elements that the officer considered as part of the balancing exercise, however the Officer Report refers to having conducted the exercise and that there is no clear or convincing justification submitted for the harm or why and alternative, more sensitive material could not be used. This argument would have similar implications to the assessment and balancing exercise as carried out as part of this appeal. As shown in the appeal, there is no supporting evidence presented in the appeal which would demonstrate that uPVC windows would significantly outperform double glazed timber windows. As such, the environmental benefits would be similar to that of alternative timber windows and therefore these benefits are not sufficient to outweigh the harm caused. Consequently, there is no information before me that would demonstrate that the Council has behaved unreasonably in this respect. Taking the above into account, I do not consider that unreasonable behaviour in line with the PPG has been demonstrated in relation to this ground.
7. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated and as such the appeal could not have been avoided. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

J Somers

INSPECTOR