

Costs Decision

Site visit made on 15 April 2024

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 May 2024.

Costs application in relation to Appeal Ref: APP/Y2620/D/23/3335606 The Old Workshop, Sloley Road, Sloley, Norfolk NR12 8HA

- 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 Harper-Gray for an award of costs against North Norfolk District Council.
 - The appeal was made against the refusal of planning permission for erection of garden room and fence (retrospective).
-

Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and such behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. The applicants are seeking partial costs related to the preparation of appeal submissions concerning the fence. This arises from the Council's alleged unreasonable behaviour in not taking account of the amended materials for the fence; not having regard to residential amenity as a material consideration; and placing undue reliance on the reed boundary fence in preserving privacy.
 4. Taking each of these points in turn, as noted in the appeal decision it is not fully clear what specific changes to the fence were proposed. The application form refers to the existing materials as 'timber and steel' while the proposed material is 'featheredge timber and steel'. Reference is also made to the different timber in the Design and Access Statement. However, these changes appear not to be shown on drawings to allow an assessment of the effects of different materials, or reflected in the description of development. As such, it is not unreasonable for the Council to have determined the proposal on the basis of the fence as erected. Moreover, it is not possible to infer that had the alternative materials been taken into account it would have led to a different decision.
-

5. The final two points are related. I acknowledge that the purpose of the fence, to maintain privacy, was not addressed in the Council's assessment of the proposal; and that the full background to the reed boundary fence was not provided. However, it is not possible to infer that had the Committee taken account of these matters it would have resulted in a different outcome, thereby negating the need to address the fence in the appeal submissions. I accept, however, that the applicants' principal concern is the need to raise these matters in the appeal submissions, which would not have been necessary had the Council addressed them as the applicants would have wished.
6. The evidence related to these matters provided in the applicants' appeal statement is extensive and detailed. However, I note that the same matters concerning the purpose of the fence, the history of the boundary and the status of the reed fence, were already addressed more succinctly in the Design and Access Statement submitted with the application. It seems, therefore, that it would have been possible for the applicants to replicate the material already prepared for the application or point to it and explain briefly the Council's alleged omission in its assessment. As such, while I accept that there were some omissions on the Council's part, this did not directly result in unnecessary expense to the applicants with regard to the appeal submissions.
7. Therefore, taking these findings as a whole, there is no basis for me to conclude that the Council's approach with regard to this proposal amounts to unreasonable behaviour on its part.
8. Accordingly, having considered this costs application on its merits, for the reasons given I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated and an award of costs is not justified.

J Bell-Williamson

INSPECTOR