



Costs Decision

Site visit made on 6 September 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 27 September 2024

Costs application in relation to Appeal Ref: APP/M2840/W/24/3345103 Clarks Barn, Cranford Road, Cranford NN14 4AA

- 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 Steffen Norris, Barton Lodge Developments for a full award of costs against North Northamptonshire Council.
 - The appeal was against the refusal of the Council to issue a planning permission for barn conversion to create 2 No 3-bedroom dwellings including utilising existing access and amenity land.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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.
3. Unreasonable behaviour in the context of an award of costs may be either procedural, relating to the process; or substantive, relating to the issues arising from the merits of the appeal. The PPG advises that awards cannot extend to compensation for indirect losses.
4. The Council has accepted that an amended drawing, submitted by the applicant on the 8 September 2022, resolved the Council's issues raised about the design of the proposal. An e-mail is before me dated 6 October 2022 whereby the Development Officer confirms that the amendments were acceptable.
5. Nevertheless, the Council did not consult on the amended drawings and subsequently determined the application based on the original drawings on the 13 December 2023, a significant time after the email correspondence confirming the amendments were acceptable.
6. Had the amended drawing being properly considered and processed, the first and second reasons for refusal cited on the Council's decision notice would have been avoided, a fact the Council do not contest.
7. I conclude that the Council has behaved unreasonably in this respect and that this has led to unnecessary wasted expense for the applicant who has had to address this matter in their appeal.

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8. The Environmental Health Officer raised objections to the Outdoor Amenity Area Noise Assessment (MDR/J4927c) submitted in September 2023. A revised version of the Outdoor Amenity Area Noise Assessment (MDR/J4927d) was submitted by the applicant on 12 November 2023. The Environmental Health Officer was only consulted on this updated information in relation to the appeal proposal, once the appeal had been submitted.
 9. The applicant has identified that the updated Outdoor Amenity Area Noise Assessment was used to discharge a planning condition relating to the adjacent site. However, the discharge of a condition on a separate permission, even if the details cover both sites, is not sufficient to demonstrate that the details were acceptable in relation to the appeal scheme specifically. The email extract provided at paragraph 1.11 of the appellant's Cost Application does not refer to the appeal scheme. Whilst the two sites are adjacent to one another, the Council has clearly identified that there are differences in the two schemes in terms of the acoustic environment constraints.
 10. Whilst I have reached a different conclusion to the Council, the effects of a proposal on the living conditions of future occupiers is a matter of planning judgment, and the Council has clearly set out its reasoning for reaching its decision, providing comments on the previous two noise assessments.
 11. The Council has confirmed that even if the revised information was considered, it would still object to the scheme on noise issues. On this basis, the appeal would not have been avoided even if the Council had considered the updated Outdoor Amenity Area Noise Assessment prior to determining the application. Consequently, I find no unreasonable behaviour or wasted expense in relation to the third reason for refusal regarding the effects of noise.
 12. For the reasons outlined above, the need to deal with issues relating to the design of the proposed conversion scheme in respect of the first and second reasons for refusal identified by the Council, has resulted in unnecessary wasted expense, as described in the PPG. Consequently, a partial award of costs is justified.

Costs Order

13. 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 Mr Steffen Norris, Barton Lodge Development, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in respect of refusal reasons 1 and 2.
14. The applicant is 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

G Dring

INSPECTOR