



Costs Decision

Site visit made on 4 September 2024

by C Billings BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2024

Costs application in relation to Appeal Ref: APP/M2840/W/24/3340853 6 Old Dry Lane, Brigstock, Northamptonshire NN14 3HY

- 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 Mrs Barbara Lancaster for a full award of costs against North Northamptonshire Council.
 - The appeal was against the grant of planning permission subject to conditions of planning permission ref NE/22/01605/VAR for variation of condition 3 approved plans to allow for ground levels to be as per new drawings, pursuant to application NE/21/01858/FUL: Demolition of existing single storey dwelling and erection of single storey replacement dwelling, including parking and turning space.
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Decision

1. The application for an award of full costs is allowed 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. The appellant seeks full award of costs against the Council on the basis that the conditions in dispute were unreasonably imposed, as the conditions do not meet the relevant tests set out in the National Planning Policy Framework (the Framework).
4. Also, the appellant asserts that the appeal application was not justified in the first instance, as it had not been demonstrated that the finished floor levels of the approved dwelling was any different to that previously approved under the original scheme (ref. NE/21/01858/FUL). Although, I appreciate it was the appellant's decision on whether or not to submit the amended application in the first instance, on the advice of the Council.
5. Notwithstanding that the Council gave reasons for their conditions, I have found in my appeal decision that the disputed conditions are unnecessary and unreasonable. Therefore, the conditions fail to meet the relevant tests for conditions, as set out in the Framework and the Planning Practice Guidance (PPG) and so, should not have been imposed.
6. The Council have not provided any substantive evidence to demonstrate that the amended scheme is discernibly different from the originally approved scheme, nor provided any compelling evidence to demonstrate that the bungalow, as built, is so different that it causes harm to the character of the

area or the living conditions of occupiers of neighbouring properties to justify the amended condition 2 and additional conditions 6 and 7.

7. The additional requirement of condition 2, that the development be retained and maintained in accordance with agreed details 'in perpetuity' was unreasonable, as the site is not within a particular identified area of protection and it would require its retention forever, rather than solely for the lifetime of the development itself. Therefore, it places an overly onerous burden on the appellant and future occupiers of the bungalow. Also, in the respect of condition 7, the Council would have been aware of its development management responsibilities, in that the PPG advises that blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require planning permission are unlikely to meet the tests of reasonableness and necessity.
8. Additionally, in its statement of case, the Council proposed further revised conditions which would have placed further unnecessary burdens on the appellant, disproportionate to the scale or nature of the proposed development and so, this was also unreasonable of the Council.
9. In view of the above, I conclude that unreasonable behaviour on behalf of the Council has been demonstrated. Therefore, the appellant has incurred unnecessary and wasted expense in preparing the appeal and in responding to the Council's proposed unnecessary and onerous amended conditions, which was avoidable. Accordingly, I find a full award of costs is justified.

Costs Order

10. In the 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 Mrs Barbara Lancaster, the costs of appeal proceedings described in the heading of this decision. Such costs are to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to North Northamptonshire Council, whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C Billings

INSPECTOR