



Costs Decision

Site visit made on 18 November 2024

by **S Pearce BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Costs application in relation to Appeal Ref: APP/V2635/W/24/3341467

27 Little Carr Road, North Wootton, Norfolk PE30 3RQ

- 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 Tower Street KL Ltd for a full award of costs against King's Lynn and West Norfolk Borough Council.
 - The appeal was against the refusal of planning permission for the re-modelling of existing dwelling together with new porch and erection of 1 no. dwelling.
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Decision

1. The application for an award of 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 PPG states that awards may be either procedural, in regard to behaviour in relation to completing the appeal process, or substantive, which relates to the planning merits of the appeal.
4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; fails to produce evidence to substantiate each reason for refusal on appeal; and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. On substantive grounds, the appellant cites that the case officer recommended approval, with a condition to protect and enhance the public right of way (PROW). Moreover, they assert that the proposed development would have no impact on the PROW, as confirmed by the local Highway Authority and PROW officer, who raised no objections to the appeal scheme.
6. In this case, the Council's Officers recommended approval, but the Planning Committee Members did not accept the recommendation. Members are entitled to come to their own view in respect of a development, as such a decision is a matter of planning judgement. As such, they are not duty bound to follow the advice of their professional officers, including the views of the Highway Authority and PROW officer.

7. However, the submitted plans indicate that no changes were proposed to the existing driveway as part of the appeal scheme. Moreover, while noting the concerns of the Committee Members in relation to the PROW, the grant of planning permission does not authorise any interference with a PROW.
8. Notwithstanding the concerns raised in the appeal decision in respect of the preciseness and enforceability of the suggested condition, Committee Members were presented with a condition and legislation in the form of a Temporary Traffic Regulation Order (TTRO). Moreover, the Council's Committee report highlights that the PROW team have powers to take action in respect of any works which may have taken place. Given that there are other mechanisms in place to protect the PROW, and that the appellant has confirmed that they have applied for works to the PROW under the TTRO, I am not satisfied that the Council has robustly demonstrated that the PROW would not be suitably protected.
9. Consequently, I conclude that the Council has behaved unreasonably in assessing the application as being harmful in this regard. This has led to unnecessary and wasted expense for the appellant, having to address this matter at appeal.

Conclusion

10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

11. 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 King's Lynn and West Norfolk Borough Council shall pay to Tower Street KL Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to King's Lynn and West Norfolk Borough 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.

S Pearce

INSPECTOR