



Costs Decision

Site visit made on 7 January 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 March 2025

Costs application in relation to Appeal Ref: APP/X3540/W/24/3345482

32 The Thoroughfare, Woodbridge IP12 1AQ

- 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 Groen for a full award of costs against East Suffolk Council.
- The appeal was against the refusal planning permission for demolition of existing dwelling and associated garage structure and erection of replacement dwelling, without complying with conditions 2,8 and 12 attached to planning permission Ref DC/20/2417/FUL, dated 25 August 2020.

Decision

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

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 on the part of a local planning authority may include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, acting contrary to, or not following, well-established case law, or not determining similar cases in a consistent manner.
4. The application is made on the basis that the Council failed to have due regard for a previous appeal decision in regard to three non-habitable windows and the overlooking of the garden area of 6 Doric Place (No 6). Additionally, that the inclusion of an incorrect reference to paragraph 135e of the National Planning Policy Framework resulted in a further defence and consequent expense for the appellant.
5. A previous Inspector dismissed an appeal¹ for a roof terrace. The planting scheme and construction of the dwelling had not occurred at the time of the previous Inspector's decision. Therefore, since the dwelling has been constructed and the planting scheme implemented, the Planning Committee members in this case were entitled to come to their own conclusion on the consequence or lack thereof of the removal of condition 8, so long as a case could be made for the contrary view.
6. I have found in my appeal decision that the removal of condition 8 would not result in inadequate living conditions for the occupants of No 6 or for the occupants of 32 The Thoroughfare. However, this is a matter of planning judgment, and the Council

¹ Planning Appeal Ref: APP/X3540/W/20/3256680

has set out its reasoning for reaching a different conclusion. Whilst I do not agree with that view, I do not consider the Council acted unreasonably in refusing permission.

7. In the aforementioned appeal decision, the Inspector stated that the three windows on the side elevation of No 6 served non-habitable rooms. The previous Inspector was clear regarding the lack of harm to the privacy of the occupants of No 6 and consequently, it is unreasonable for the Council to refer to this as a reason for refusal. Whilst there is an element of judgement involved, the Council has shown no reasonable basis for the stance taken by its Planning Committee with regard to this element of the cost's application. However, given the above, even if the Council had not referred to this reason for refusal this would not have avoided the need for the appeal.
8. Finally, the Council acknowledges the incorrect reference to criterion (e) of paragraph 135 of the Framework. It has also asserted that the reason for refusal clearly refers to matters of amenity and also correctly refers to Policy SCLP11.2 of the East Suffolk Council – Suffolk Coastal Local Plan 2020. Although the reference was incorrect, it would not have avoided the need for the appeal and consequently does not result in unreasonable behaviour leading to unnecessary or wasted expense.

Conclusion

9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

B Astley-Serougi

INSPECTOR