



Costs Decision

Site visit made on 13 May 2025

by Ian McHugh DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2025

Costs application in relation to Appeal Ref: APP/F2415/D/25/3363096

20 Main Street, Great Bowden, Market Harborough, LE16 7HB

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Lucy Tugwell for a full award of costs against Harborough District Council.
 - The appeal was against the refusal of planning permission for the erection of fence, new first floor terrace with spiral staircase to lower garden courtyard and replacement of upper rooflight with lower rooflight and door combination from first floor living area to new terrace.
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Decision

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

Reasons

2. 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. Unreasonable behaviour may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).
3. In this case, the appellant has applied for costs on the grounds that
 - The Council failed to properly apply the statutory tests in relation to the effect of the proposal on the Great Bowden Conservation Area (CA);
 - The Council failed to give proper consideration to the relevant planning policies; and
 - The Council acted unreasonably by issuing a decision which was contrary to advice given in response to a pre-application enquiry; giving insufficient time to the appellant to address the Council's concerns; and planning permission being refused on a matter that could have been dealt with by a condition.
4. Regarding the statutory tests, it is evident in the planning officer's report that reference was made to the relevant section of The Planning (Listed Buildings and Conservation Areas) Act 1990 and the duty that imposes. Furthermore, whilst the Act was not quoted in the Council's decision notice, I am satisfied that the Council considered the provisions of both the legislation and the National Planning Policy Framework (NPPF) in reaching its decision. I accept that the level of harm was not expressly quantified, but it is clear that the Council gave consideration to balancing the harm that it had identified against any public benefits arising from the proposal.

The decision notice also referred to paragraph 215 of the NPPF, which relates to 'less than substantial harm'.

5. Turning to the Council's consideration of planning policy, it is evident that the relevant policies of the Development Plan and the provisions of the NPPF were taken into account when it reached its decision. Whilst, in some parts, the officer's report did not quote the relevant sub-sections of policy, they are detailed in the decision notice. I agree with the Council, that quoting them in full would have been inconsequential and it would not have changed the outcome.
6. With regard to the matter of pre-application advice, I accept that applicants for planning permission should expect a reasonable degree of certainty in any responses that are made. In this case, I have noted that the Council's responses of 12th and 25th July 2024 refer to "an incongruous feature" and "problems with visual impact". Whilst they do not explicitly mention the effect on the CA or the streetscene, the appearance of the terrace would clearly have been an issue when determining the application.
7. I acknowledge that giving notice of the Council's concerns just prior to issuing the decision notice is not best practice. However, the Council is required to determine applications in a timely manner and there is no requirement to give applicants any notice in advance of its decision, notwithstanding the advice contained in paragraph 39 of the NPPF in respect of working proactively with applicants.
8. Finally, the PPG advises that an example of unreasonable behaviour is refusing permission on planning grounds capable of being dealt with by conditions. In this case, I have imposed a condition in my appeal decision, which I consider to address the Council's concern regarding privacy. However, that does not mean the Council acted unreasonably, particularly as the second reason for refusal concerned overbearing and loss of light, in addition to its concern over privacy.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Ian McHugh

INSPECTOR