



## Costs Decisions

Inquiry held on 25 – 27 April 2023

Site visit made on 27 April 2023

by **Katie Peerless Dip Arch RIBA**

an Inspector appointed by the Secretary of State

**Decision date: 18 May 2023**

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**Costs application in relation to 3 Appeals at Land situated at Lyndon Thomas Ltd., Birchfield Springs, Rushton Road, Desborough, NN14 2QN**

**Appeal A Ref: APP/L2820/C/20/3253535**

**Appeal B Ref: APP/L2820/C/20/3253536**

**Appeal C Ref: APP/L2820/C/20/3253537**

- 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 North Northamptonshire Council for a full award of costs against Lyndon Thomas Ltd, Lyndon Thomas and Samantha Thomas.
  - The Inquiry was in connection with an appeal against an enforcement notice alleging the material change of use of the land to a mixed sui generis use.
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### 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.

### The submissions for North Northamptonshire Council

3. The Council has submitted its application for costs in writing so I will not reproduce that document here. However, the main points made are that the Council considers that the appellants have made significant financial gains from continuing the unauthorised operations on site. The submission of these appeals has prolonged this and the appellants behaviour in this regard is considered to be an unreasonable and cynical manipulation of the appeal system.

### The submissions for the appellants

4. The appellants have submitted their response in writing and, in summary, they consider that whilst the Council disagrees with the appellants' case, there is no evidence to demonstrate that the appeals have been brought other than for genuine reasons. Professional witnesses on both sides have given their views on a number of issues including the discharge of conditions and the extent of the differences between the approved and as built schemes.

5. Rather than making '*significant financial gains*' during the appeal process, the appellants have continued to implement the development approved in the 2010 planning permission.

**Reasons**

6. In the main Decision I have found that some of the claims made by the Council in respect of the operations that have taken place on site were incorrect and I have quashed the Enforcement Notice. Consequently, it was not unreasonable of the appellants to have lodged an appeal against it.

**Conclusions**

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

*Katie Peerless*

INSPECTOR