
Costs Decision

Site visit made on 31 January 2017

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 February 2017

Costs application in relation to Appeal Ref: APP/U2235/W/16/3156847 75 College Road, Maidstone ME15 6TF

- 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 Maidstone Borough Council for a full award of costs against Mr Kenneth Bowra.
 - The appeal was against the refusal of planning permission for use of a redundant parking and garden area at the rear of 75/75a College Road for the erection of two detached 3 bedroomed houses with parking and gardens to suit.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, costs may only 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 Council indicates that the previous Inspector, in reaching his decision in respect of 4/5 houses at the appeal site (ref APP/U2235/W/15/3140770) stated that residential development at this site would be "... out of character with the area which generally comprises road frontage housing with long back gardens ... and would cause significant harm to the character and appearance of the area". In view of this comment the Council contends that the proposed development, being backland, is fundamentally unacceptable in principle.
 4. In addition, the Council considers that the appellant has not addressed the reason for refusal as it would still constitute a cramped form of development which would result in poor living conditions for future occupiers.
 5. The Council contends that the appellant has acted unreasonably by appealing the decision given the recent appeal history and that the proposed development continues to be contrary to the National Planning Policy Framework.
 6. Whilst the Inspector opined that the previous scheme "would be out of character with the area which comprises road frontage housing with long back gardens", he did not specifically rule against any development taking place. He referred to that particular development being cramped and out of character. The appellant has submitted an application consisting of a substantially reduced number of dwellings. I consider this to represent an attempt to
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address the previous concerns. This, in my opinion, does not in itself amount to unreasonable behaviour.

7. I note that both of the Council's decision notices grounds for refusal refer to the overdevelopment of the site, which could, in both cases, be seen to implying that a lesser development may be acceptable. Whilst the Council says the overdevelopment would be detrimental to the character of the area and at odds with the prevailing pattern of development, it does not explicitly state that any development in the proposed location would be unacceptable.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Nicola Davies

INSPECTOR