
Costs Decision

Site visit made on 24 July 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 15th August 2017

Costs application in relation to Appeal Ref: APP/V2255/W/17/3173734 Excelsior House, Ufton Lane, Sittingbourne ME10 1JA

- 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 Wildwood Ltd for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for conversion from B1 offices to a mixed use of A2 offices and 9 one bedroom residential apartments.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The Planning Practice Guidance ('PPG') advises that, 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 expense in the appeal process.
3. The Council's reason for refusal set out in the decision notice is complete, specific and relevant to the application. It also clearly states the policies of the development plan that the proposal would conflict with, albeit that they have been superseded during the course of the appeal¹.
4. Whilst I appreciate that the appellant does not agree with the Council's consideration of the development or opinions relating to the effect of the proposal, the issues at the heart of the appeal inevitably involve matters of planning judgement. The Council is not bound by the view of Kent County Council as highway authority and notwithstanding the original positive officer recommendation, the Planning Committee was not bound to accept the advice of officers and their concerns are based on specific local circumstances. Although I have reached a different view, given their conclusions, which I am satisfied were properly reached, an appeal was inevitable.
5. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason an award for costs is not justified.

Richard Aston
INSPECTOR

¹ Adoption of Bearing Fruits 2031: The Swale Borough Local Plan on 26 July 2017.