

## Costs Decision

Hearing held on 6 February 2019

Site visit made on 7 February 2019

**by Jameson Bridgwater PGDipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 01 April 2019**

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**Appeal Ref: APP/M2270/W/18/3199819**

**Brook House, Cranbrook Road, Hawkhurst, Cranbrook TN18 5EE**

- 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 P Paulding T/A Esquire Developments Ltd for an award of costs against Tunbridge Wells Borough Council.
  - The appeal was against the refusal of outline planning permission for a proposal described as 'Proposed Demolition of Existing Building and Erection of 25 Apartments with Affordable Housing, Parking Provision, New Highway Access and Other Ancillary Works'.
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### Decision

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

### Reasons

2. National Planning Practice Guidance (the Guidance) advises that, 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 appeals process.
  3. The Guidance further sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. Additionally, the Guidance is clear that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
  4. The appellants' application for an award of costs and the Council's submissions in response were both submitted in writing.
  5. The appellants' state that the Council acted unreasonably on the basis that the determination of their planning application had been the subject of substantial delays, in particular in relation to communication with the Highway Authority and their submitted viability report.
  6. I have no reason to doubt that communication between the parties in relation to the effect of the proposal on highway safety and viability could have been concluded more efficiently and in that respect, I have a degree of sympathy for the appellant. Furthermore, I agree that the Council should have formally sought an extension of time and given a degree of certainty with regard to when the application would be determined. However, based on the information before me there is no substantive evidence that demonstrates that this was anything other than a genuine if unfortunate combination of timing and events
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that resulted in the delay and therefore in these specific circumstances, I do not consider the Council's actions to have been intentionally difficult or obstructive. Consequently, whilst I have found in favour of the appellants and allowed their appeal; there is no substantive evidence before me that demonstrates that the Council have acted unreasonably in dealing with these matters.

7. In conclusion, I find that it has not been demonstrated that the Council behaved unreasonably with respect to the substance of the matter under appeal and that the appellant's costs in mounting the appeal were not unnecessarily incurred. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

*Jameson Bridgwater*

INSPECTOR