

Costs Decision

Site visit made on 20 June 2019

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2019

Costs application in relation to Appeal Ref: APP/V2255/W/19/3225737 17 Musgrave Road, Sittingbourne, ME10 2EJ

- 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 Hutchinson Properties (Mr Hutchinson) for a full award of costs against Swale Borough Council.
 - The appeal was against the refusal of planning permission for erection of a two storey, three bedroom house with new access and car and cycle parking.
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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. In this case the applicant is concerned about the manner in which the Council assessed the planning application. More specifically that if it had applied the tilted balance test in the National Planning Policy Framework to the scheme then planning permission would have been granted.
3. The Council's officer report did not consider the tilted balance test. Nonetheless it considered the planning merits of a scheme for a dwelling within an area where the Council takes the view that housing is acceptable in principle. The report considers the issues and explains the Council's position on them with reference to the relevant policies of the Swale Borough Local Plan.
4. Within its statement of case the Council has considered the tilted balance but concludes, as I have, that the harm arising from the provision of a dwelling would significantly and demonstrably outweigh the benefit arising from the provision of one dwelling. Fundamentally, given the location of the site and the planning issues involved, the consideration of the test by the Council at application stage would not have changed the outcome of the application or the need for an appeal. As such I do not consider that the Council's approach has been unreasonable.
5. I therefore find that unreasonable behaviour resulting in unnecessary expense as described in the PPG, has not been demonstrated. For the reasons given above I refuse the application for an award of costs.

D J Board
INSPECTOR