The Planning Inspectorate

Costs Decision

Site visit made on 27 June 2019

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th August 2019

Costs application in relation to Appeal Ref: APP/U2235/W/19/3220403
Vine Cottage, Pye Corner, Ulcombe ME17 1EF

- 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 & Mrs Paul Turner for a partial award of costs against Maidstone Borough Council.
- The appeal was against the refusal of planning permission for the demolition of the existing chalet bungalow, garage and two outbuildings and the erection of a four bedroom, two storey dwelling with car parking and a new vehicular access and landscaping

Decision

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

Reasons

2. The Planning Practice Guidance 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.

3. The Appellants submit that the Council has acted unreasonably in that, during the course of the application, the Council only indicated the need for an ecological survey to be submitted one week before the 8 week deadline. Whilst the Appellants offered to agree to an extension of time to submit the survey, the Council subsequently refused the application on ecological grounds when the matter essentially could have been resolved at the application stage.

4. Whilst I understand the sense of frustration which this may cause, I find nothing to suggest that a decision was not reached on the basis of the merits of the proposal. The emails between the Appellants and the Council demonstrate that the Council had other concerns about the proposal, and I recognise that the Council does have a responsibility to determine applications in a timely manner. Therefore it would not be reasonable to conclude that the Council had behaved unreasonably in the procedure leading up to the appeal on the basis of the information before me.

5. Turning to wasted expense, the appellant had already produced the ecological survey for the appeal. In lodging the appeal, and in responding to the Council's case, the Appellants have had to raise the issue that the Council has not had regard to the ecological survey. However, the Council has since indicated that the ecological scoping survey dated October 2018 satisfactorily addresses the matter and that the second reason for refusal could be removed. Therefore the situation has not resulted in any need for further assessment by the Appellants, or indeed anything beyond a short rebuttal on the Council's position in relation

to this claim for costs. In essence, there has been so little extra work involved in responding on the matter of ecology that it can be regarded as 'de minimis'.

6. Accordingly, I do not consider that the Council behaved unreasonably in its determination of the application. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

C Hall

INSPECTOR