



Costs Decision

Site visit made on 2 July 2019

by Rajeevan Satheesan BSc PGCert MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2019

Costs application in relation to Appeal Ref: APP/U2235/W/19/3225078 466 Loose Road, Maidstone ME15 9UA

- 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 R Parsons on behalf of Applecross Homes for a full award of costs against Maidstone Borough Council.
 - The appeal was against the refusal of planning permission for outline planning permission for the demolition of 466 Loose Road and the erection of six residential dwellings (one detached two storey dwelling fronting Loose Road and five bungalows within the rear). All matters are reserved for future consideration with the exception of access which is to be considered in detail at this stage.
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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.
3. The applicant claims that unreasonable behaviour occurred because the Council refused the application contrary to the Officer's advice. It is further stated that the decision was based upon plans that were for illustrative purposes only, with matters of layout, appearance and landscaping reserved for future consideration. The applicant also considers that there was no discussion where within the public domain the harm would be created. The applicant therefore concludes that the Council has not substantiated the reason for refusal, resulting in unnecessary costs through the submission of this appeal.
4. The PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. I have noted the recommendation of the Council's Officer and the previous Inspector's decision. However, character and appearance are matters of judgement which must be considered on a site by site basis and on its own merits. Whilst the applicant may not agree with the weight that Members gave to this issue, given the outline nature of the proposal, the decision turned on a matter of judgement. Therefore, the Council were exercising their duty

accordingly when considering this application and the Council Members were entitled not to accept the advice of Officers, so long as the case could be made for an alternative view. Whatever the discussion that took place at the planning committee, the eventual decision properly relied on relevant development plan policies, all of which were addressed in the decision notice.

6. Whether or not I agree with the Council's conclusions, its reason for refusal and the subsequent appeal statement clearly explained its concerns, drawing on appropriate development plan policies and valid material considerations. Therefore, there is no call in my opinion, to find the Council's behaviour unreasonable in this regard, merely that Members gave the issue of character and appearance of the area different weight from the Officer. I am therefore satisfied that the Council was able to substantiate its reason for refusal.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Therefore, the applicant's claim for costs fails.

R Satheesan

INSPECTOR