



Costs Decision

Hearing Held on 13 August 2019

Site visit made on 13 August 2019

by Christa Masters MA (Hons) MRTPI

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

Decision date: 20th September 2019

**Costs application in relation to Appeal Ref: APP/A2280/W/19/3227260
Plot 1, Medway City Estate, Anthony's Way, Frindsbury, Kent ME2 4DW**

- 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 Medway Council for a full award of costs against Location 3 Properties Ltd.
- The hearing was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the erection of retail development (Use Class A1) trade counter units (Use Class B8) and a drive-thru restaurant, together with associated access, servicing and infrastructure works, car parking and landscaping.

Decision

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

Reasons

2. Paragraph 16-030 of the PPG 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 appeal process.
3. The Council's case was made verbally at the hearing. In summary, it was made because the Council considered that late evidence was submitted which caused the Council additional expense.
4. The appeal was submitted against the failure of the Council to determine the planning application. The Council resolved that it would have refused planning permission for the appeal scheme. In responding to this single reason for refusal, the appellant sought to engage constructively with the Council and discuss areas of agreement and disagreement with a view to producing a statement of common ground. Given the nature of the reason for refusal, this involved additional technical evidence which was shared with the Council several weeks before the Hearing commenced. Both parties were advised that there would be no procedural unfairness in accepting this evidence prior to the Hearing commencing and I remain of this view. Consequently, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and an award of costs is not justified.

Christa Masters

INSPECTOR