
Costs Decision

Site visit made on 20 May 2019

by Tim Crouch DipUD MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 17 October 2019

Costs application in relation to Appeal Ref: APP/J2210/W/18/3214213 Land at rear of 73-85 Sweechgate, Broad Oak, Sturry, Canterbury CT2 0QR

- 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 S Patience of Simon Patience New Homes Ltd for a full award of costs against Canterbury City Council.
 - The appeal was against the refusal of planning permission for demolition of existing garages and erection of 3 no. detached and 6 no. semi-detached houses, amenity space, landscaping, parking and access.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant considers that the Council have acted unreasonably in refusing planning permission on the grounds of a cramped, over-intensification of the site that would harm the character and the appearance of the area as this was effectively introducing a new reason for refusal.
5. The planning application, now subject to the related appeal to this Costs decision, was a resubmission of an earlier scheme. This earlier scheme was refused for reasons of (1) absence of a comprehensive masterplan in connection with a neighbouring strategic allocation, (2) insufficient information in relation to vehicle tracking and turning, (3) insufficient information in relation to protected species, and (4) ecological mitigation of the impacts on nearby designated Special Protection Area. This was refused under delegated authority.
6. The applicant addressed these issues and resubmitted the application. This resulted in minor changes to the parking layout for two units. The application was then recommended for permission by officers to be considered at Planning Committee by elected members. Although the officers report contained

references to the earlier application, the application was then refused due to its impact on the character and appearance of the area.

7. Whilst both decisions are technically formal decisions of the Council, and I have some sympathy with the applicant that they had a reasonable expectation of securing permission, the application which forms part of this appeal was the first time the proposal had come before members. The report before them contained a recommendation by an officer based on a balance of the planning merits. The democratic process then allows for elected members to determine proposals following their own balancing act. This is what then occurred.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Tim Crouch

INSPECTOR