
Costs Decision

Site visit made on 9 October 2019

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2019

Costs application in relation to Appeal Ref: APP/H2265/W/19/3230565 10 Whatcote Cottages, Maidstone Road, Platt, Sevenoaks TN15 8JP

- 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 Alex Raby for a full award of costs against Tonbridge & Malling Borough Council.
 - The appeal was against the refusal of planning permission for formation of vehicular access and associated hard standing.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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's main grounds are that the Council did not allow it time to address concerns raised during the consideration of the application which may have led to a different conclusion, placed too much reliance on an appeal¹ from 2003 on the adjoining property, 11 Whatcote Cottages, and did not explain the difference with another site where it had granted permission at 1A Marion Cottages.
4. The PPG makes clear² that costs cannot be claimed for the period during the determination of the application but, as all parties are expected to behave reasonably throughout the planning process, behaviour and actions at the time of the planning application can be taken into account in the consideration of whether or not costs should be awarded.
5. The fundamental difference of the parties was the use of Safe Stopping Distance as part of the consideration of establishing the sight lines and whether the use of the Kent Design Guide, Manual for Streets and Manual for Streets 2 was appropriate. In a case like this the use of the base standard is a matter of judgement as long as that is then not slavishly followed and other material considerations taken into account. I am of the view that the Council satisfactorily explained why they took the approach that it did, particularly

¹ APP/H2265/A/03/1108225

² Reference ID: 16-033-20140306

given the appeal on the adjoining site, and this does not represent unreasonable behaviour.

6. Although the previous appeal is now of some vintage that does not mean that its principles are out-of-date. While the planning policy situation will have changed certain fundamental planning principles, such as highway safety, have not changed over that time. The Inspector in that appeal considered the issue of turning in to and out from the appeal site which was an issue in the current appeal. It was a matter of planning judgement as to how much weight should be given to that appeal decision and I do not consider that the Council acted unreasonably in giving it the weight that it did.
7. Finally, while not determining similar cases in a consistent manner can represent unreasonable behaviour leading to an award of costs against the Council³, the Council explained why it considered the situation at 1A Marion Cottages to be different. I agree with those differences in my appeal decision and consequently this ground is not made out.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

RJ Jackson

INSPECTOR

³ See PPG Reference ID: 16-049-20140306