
Costs Decision

Site visit made on 12 August 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 26 August 2020

Costs application in relation to Appeal Ref: APP/M2270/W/20/3250239 OS Plots 4974 and 5275, Crane Lane, Cranbrook, Kent

- 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 Park View Farm Self Build Group for a full award of costs against Tunbridge Wells Borough Council.
 - The appeal was against the refusal of planning permission for three two storey detached houses with detached garages.
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Decision

1. I refuse the application for an award of costs.

Reasons

1. The Planning Practice Guidance advises that parties in planning appeals and other planning proceedings normally meet their own expenses, but that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs (Paragraph: 028 Reference ID: 16-028-20140306).
2. The Application alleges that the Council's approach and methodology in dealing with the planning application was unreasonable and that they failed to attend to the substance and detail of the application with due care and diligence with the result that their decision to refuse planning permission is unsound.
3. The Guidance makes clear at Paragraph: 033 Reference ID: 16-033-20140306 under the question '*can costs be claimed for the period during the determination of the planning application?*' that the answer is '*no*' as costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding. Behaviour and actions at the time of the planning application can however be taken into account in the Inspector's consideration of whether or not costs should be awarded.
4. The Council refer to Paragraph: 048 Reference ID: 16-048-20140306 and the statement about costs being awarded against a Council if an appeal is allowed, but that only applied to cases where the Council failed to determine an application within the time allowed, and an appeal was made on that basis. In this case the Council did determine the application and claims to have avoided wasted time and expense for the appellant by not seeking further details when their view was that the development would be refused for other reasons.

5. That is a reasonable stance as those additional details would not have made the development acceptable in the Council's view. In those circumstances it is nevertheless essential that the Reasons for Refusal include those matters for which full details were not forthcoming with the application.
6. The Council's determination on the effect of the development on the character and appearance of the area and the High Weald Area of Outstanding Natural Beauty in particular was a matter of judgement and that judgement was exercised properly and reasonably. The accompanying Appeal Decision has reached similar conclusions and whilst that Decision suggests that the matters of access, biodiversity and trees could possibly be dealt with by conditions, the Council's behaviour in those respects was reasonable. The need for an Appeal would not have been avoided given the fundamental objection raised by the Council.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated, and an award of costs is not justified.

S J Papworth

INSPECTOR