
Costs Decision

Site visit made on 4 August 2020

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2020

**Costs application in relation to Appeal Ref: APP/A2280/C/19/3238108
and Appeal Ref: APP/A2280/C/19/3238109**

Land known as 54 Vidgeon Avenue, Hoo, Rochester, Kent ME3 9DE

- The application is made under the Town and Country Planning Act 1990, sections 174, 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 Mr Ian Iveson and Mrs Debra Iveson.
 - The appeals were against an enforcement notice alleging the construction of a boundary wall exceeding one metre in height adjacent to a highway.
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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. In paragraph 53¹, the PPG advises that an appellant is at risk of an award of costs being made against them if the ground of appeal, namely that planning permission ought to be granted for the development, had no reasonable prospect of succeeding. An example is where the appeal follows a recent appeal decision in respect of the same or a very similar development. In this case, an appeal² made under Section 78 of the 1990 Act was dismissed for the same development and the Council states that it was unreasonable for the appellant to pursue the ground (a) appeal.
4. The appellants do not disagree that the current appeal relates to the same development as the recent Section 78 appeal decision. However, I note that the appeal decision does not refer to any proposal to soften the visual effect of the wall by cladding it with timber and artificial foliage having been suggested by the appellants, whereas these measures were included as part of the appellants' current appeal. The appellants were entitled to put forward these proposals in an attempt to overcome the Council's concerns. For the reasons set out in my decision, I have concluded that these measures are sufficient to overcome the identified harm caused by the wall. This represents a material change in the circumstances of the case and I do not therefore agree that the

¹ Paragraph: 053 Reference ID: 16-053-20140306 Revision date: 06 03 2014

² Ref APP/A2280/D/19/3224487

appellants have behaved in an unreasonable manner in pursuing the ground (a) appeal.

5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is not justified.

N Thomas

INSPECTOR