
Costs Decision

Site visit made on 20 October 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 10 November 2020

Costs application in relation to Appeal Ref: APP/M3645/W/20/3254016 Haxted Kennels, Dwelly Lane, Edenbridge TN8 6QA

- 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 Verity Child for a full award of costs against Tandridge District Council.
 - The appeal was against the refusal of planning permission for demolition of existing kennel buildings and replacement with six dwellings, with access and parking.
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Decision

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

Reasons

2. 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).
3. Under the heading '*what type of behaviour may give rise to a substantive award of costs against a Local Planning Authority*', the Guidance includes the following; preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead (Paragraph: 049 Reference ID: 16-049-20140306).
4. There were 3 Reasons for Refusal, the first alleging shortcomings in the layout and arrangement to achieve the subdivision of garden space and to provide the additional parking requirements. Although the accompanying Appeal Decision has concluded that the design is acceptable, this is a matter of judgement and the Council's exercise of that judgement and the conclusions reached are not unreasonable and have been properly supported with evidence at appeal.
5. The second Reason for Refusal concerns the standard of accommodation and the effect on the living conditions of prospective occupiers. The Council make reference to the Government's Technical Guidance Nationally Described Space

Standards, but only as a guide to good practice, and whilst the requirements have informed the analysis of the design, that Guidance does not feature in the Reason for Refusal which relies on the Development Plan policy. The application of that policy was reasonable in the circumstances of the case.

6. Lastly is the matter of energy conservation, and it is apparent from the grant of permission in 2019 that a condition can be used to make development that was considered acceptable in all other respects, acceptable with regard to this policy requirement. It appears that an Energy Statement was not submitted with the appeal application, and in view of the reasoning in the Officer's Report that led to a recommendation to refuse permission for other reasons, it was necessary to list this as a Reason for Refusal. To omit that would have left the Council vulnerable to it not being considered at appeal or being accused of adding a reason for refusal at appeal stage. In order for the condition to pass the test of necessity at appeal, the issue needed to be a reason for refusal.
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 warranted.

S J Papworth

INSPECTOR