
Costs Decision

Site visit made on 15 October 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2021

Costs application in relation to Appeal Ref: APP/J2210/W/20/3254470 Middle Pett Farm, Pett Bottom Road, Bridge, Kent CT4 5PD

- 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 P Mansfield for a full award of costs against Canterbury City Council.
 - The appeal was against the refusal of planning permission for the “continued retention of existing polytunnels”.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. The PPG¹ also sets out an expectation that parties will normally meet their own expenses.
3. The appellant alleges that, having identified that the proposal was unacceptable, the Council acted unreasonably by suggesting a compromise, prior to the determination of the application that is the subject of the appeal, which related to matters outside the scope of the appeal and structures that are lawful.
4. The Council found the proposal unacceptable and, for the reasons set out within the appeal decision, I find that it was reasonable to reach this conclusion. As such, if the Council had not suggested the compromise that it did, the application would have been refused. Therefore, I have no reason to conclude that the appeal would have been avoidable and the costs associated with the appeal proceedings were incurred unreasonably.
5. Whilst I recognise that the potential compromise was unacceptable to the appellant, I find that such dialogue and an attempt to identify a potential way forward represents the taking of a proactive stance which accords with paragraph 38 of The National Planning Policy Framework (The Framework). The Council was clear in their correspondence that their suggestion was only being advanced on the basis that the proposal was otherwise unacceptable and, as such, I find this represents the Council showing consideration of whether a development could be made acceptable as is encouraged by paragraph 54 of The Framework. I do not find that the suggestion of the Council led to the unreasonable refusal of the application or that the Council attempting to identify an approach that it could support conflicts with the abovementioned guidance.

¹ Paragraph: 028 Reference ID: 16-028-20140306

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Ian Harrison

INSPECTOR