



Costs Decision

Site visit made on 7 January 2021

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2021.

Costs application in relation to Appeal Ref: APP/G2245/W/20/3254754 Fox and Hounds, Toys Hill, Brasted TN16 1QG

- 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 Rebecca Haigh for a full award of costs against Sevenoaks District Council.
 - The appeal was against the refusal of planning permission for the conversion of the public house to residential use.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance 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 appellant submits that the Council has acted unreasonably by failing to produce evidence to substantiate the reason for refusal on appeal and made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. The Council has prevented the development when it should have been permitted.
 4. I note that the Council has not submitted an appeal statement to support its case, instead relying on the officer's report at application stage. Whilst this is not unusual, and in my view need not represent unreasonable behaviour, nevertheless it does open the door for an award of costs at appeal if evidence is required to substantiate a reason for refusal. The appellant's costs case refers to policy LO7, and argues that it does not apply to the appeal proposal in that it relates to development in rural settlements. It is contended that the appeal site lies outside any of the designated settlements listed in the policy.
 5. The appeal process allows the Council the opportunity to rebut the appellant's costs claim. At this point I would have expected the Local Authority, at the very least, to set out the policy position. Its views were sought on two occasions, the first eliciting no substantive reply. The second missive from the Council finally advised that no response will be made to the costs application.
 6. In the absence of any evidence to substantiate the reason for refusal on appeal, I have no indication that the Council has applied the policy correctly. Accordingly, I am drawn to conclude that the Council has prevented the development when it should have been permitted.
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7. Even if the policy has been correctly applied, the appellant has raised myriad other matters, none of which have been commented upon by the Council. I consider that the failure to substantiate the reason for refusal amounts to the unreasonable behaviour cited by the Planning Practice Guidance. To my mind, this has resulted in expense on the appellant's behalf, which is wasted because the entire appeal could have been avoided.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Sevenoaks District Council shall pay to Rebecca Haigh the costs of the appeal proceedings described in the heading of this decision. Such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C Hall

INSPECTOR