

Costs Decision

Site visit made on 21 April 2021

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2021.

Costs application in relation to Appeal Ref: APP/A2280/W/20/3263135 101-103 Shakespeare Road, Gillingham, Kent, ME7 5QL

- 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 was made by Mr Danny Birkby for a full award of costs against Medway Council.
 - The appeal was against the refusal of planning permission for construction of a 5-bedroomed end of terrace house with integral garage without complying with a condition attached to planning permission Ref 18/1484, dated 9 August 2018.
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Decision

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

Reasons

2. The Planning Practice Guidance: Appeals (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. The application for costs is made on a substantive basis and states that the Council's did not provide any factual evidence to support their refusal that there would be adverse effects from the proposed use. It is further stated that the Council did not consider other appeal decisions where HMO use was found to be acceptable.
 4. The PPG states (paragraph 049) that a possible ground for unreasonable behaviour may be where a local planning authority makes is vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. It is further stated that they must determine similar cases in a consistent manner. However, in this case it is clear to me that the effect of the proposed development is a matter of judgement; there are no 'hard and fast' tests of the issues involved, and the Council's submissions (and those of some third parties) were legitimate and well-expressed. My assessment of the case came to different conclusions on the main issue, but that does not make other parties' submissions vague, generalised or inaccurate.
 5. In relation to the other appeals, my decision explains how it is clear to me the Inspectors came to conclusions based on the facts within those cases. Those
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decisions were not binding on the current appeal, and so I consider the Council were not inconsistent in refusing permission.

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

C J Leigh

INSPECTOR