
Costs Decision

Site visit made on 20 April 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th May 2021

Costs application in relation to Appeal Ref: APP/U2235/W/20/3262071 Stilebridge Kennels, Stilebridge Lane, Linton, ME17 4DE

- 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 Maidstone Borough Council for a partial award of costs against Mr Peter Freeman.
 - The appeal was against the refusal of planning permission for demolition of all existing kennels and cattery buildings, erection of four dwellings and landscaping.
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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 appellants and may be either procedural in regard to behaviour in relation to completing the appeal process or substantive which relates to the planning merits of the appeal.
3. The Council considers that the appellant has acted unreasonably by not dealing with a substantive matter as part of the appeal process, as they consider that the reason for refusal relating to the absence of sufficient survey information regarding protected species could have been overcome as part of the appeal.
4. However, the Council was also defending two further reasons for refusal and therefore it is not unreasonable that the appellant would not produce further evidence in relation to one ground when there was a risk that the appeal would be dismissed in relation to the other two grounds. I do not find that the Council has incurred unnecessary expense in preparing and submitting evidence in support of their position and the Council has not provided any evidence of additional costs occurred.
5. An appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding, but as it will be seen from my decision the appellant has been successful on two of the three grounds. Although, ultimately, the appeal was not successful, the arguments advanced by the appellant with respect to those aspects of the appeal were not wholly without rationale, nor were they so intrinsically flawed as to be illogical and entirely without hope of success. In these circumstances it is not unreasonable for the appellant to seek to have their arguments tested through the appeal process.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Therefore, the application for costs is refused.

G. Pannell

INSPECTOR