



---

## Costs Decision

Site visit made on 1 September 2021

**by Terrence Kemmann-Lane JP DipTP FRTPI MCMI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 September 2021**

---

### **Costs application in relation to Appeal Ref: APP/J2210/W/20/3264599 Caladesi House, Littlebourne Road, Canterbury, CT3 4AF**

- 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 and Mrs G Thapa for a full award of costs against Canterbury City Council.
  - The appeal was against the refusal of planning permission for a two-storey detached dwelling together with single-storey detached garage.
- 

### **Decision**

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

### **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.

#### *The Application*

3. In responding to the appeal, the council has done little more than restate the refusal reasons. It has not provided any analysis of the character and appearance of the area or of the impact of the proposal. No response has been provided to the arguments put forward or the specific cases referred to. The council has not considered any of the detailed points relating to highway safety and there is no evidence that it has consulted with the highway authority about them. No response has been given to the specific points made about self-build/custom-build housing. Since the council has not addressed any of the matters raised and no reasoning has been put forward to challenge the appellants' case, a full award of costs is justified.

#### *The Rebuttal*

4. In response, the council states that the officer's report dealt adequately with the character and appearance of the area and the proposal's impact on the area. It is acknowledged that the appellants submitted a highways statement which addressed a reason for refusal, but it also introduced new elements that were not before the council at the time the application was determined. On the basis of the new elements of the proposal, the highway authority withdrew its objection, so that this refusal reason was no longer pursued. The council acknowledged and responded to the self-build proposal that was introduced as part of this appeal. Some weight was attached to the contribution of this

development towards meeting a need for self-build plots, but the unsustainable location of the proposed development is attributed a significant weight. Furthermore, the council responded to the 5-year housing land point by making reference to the most recent Housing Land Supply Statement and Annual Monitoring Report which show a supply of 6.2 years. The refusal of permission was reasonable and relied on planning policies and did not cause the appellants to waste expense.

### *Conclusions*

5. The question that needs to be addressed, when considering a claim for costs, is whether the refusal of planning permission and the reasons for refusal were founded on appropriate policy and other considerations, based on the development proposed, and whether the refusal reasons were able to be supported by appropriate responses to the appeal. Looking at the Planning, Design and Access Statement (PDAS) that was submitted with the planning application, it is clear that it contained no reference to Self-build or custom-build or to the closing of the vehicular access to Caladesi via the access track. It is unsurprising, therefore, that the officer did not assess the proposed development against these 2 factors.
6. As will be seen from my decision issued on this case, for the most part I have accepted the council's position on the issues dealt with. On the best evidence before me, I did not accept the council's contention with regard to the housing land supply, but it is clear that, at the time of the refusal, it had an arguable position backed by its Housing Land Supply Statement and Annual Monitoring Report. Whilst the highway refusal reason is no longer relied upon, that follows fresh information. In regard to this, on the basis of the planning application, the highway authority and the council were on firmer ground than the appellants, whose PDAS described the access as having "good visibility splays in either direction", a statement that I could not have agreed with.
7. I conclude, for the reasons set out above, that unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all matters raised, an award for costs is therefore not justified.

*Terrence Kemmann-Lane*

INSPECTOR