



Costs Decision

Site visit made on 22 September 2021

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 OCTOBER 2021

Costs application in relation to Appeal Ref: APP/H2265/W/21/3278509 Broadwater Stables, Broadwater Road, West Malling ME19 6HT

- 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 K Sunnucks for a full award of costs against Tonbridge & Malling Borough Council.
 - The appeal was against the refusal of planning permission for clearance of existing stables and outbuildings and erection of 3 no, detached dwellings with associated access, parking, garaging and amenity.
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Decision

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

Reasons

2. The Planning Practice Guidance states that, irrespective of the outcome of the appeal, an award of costs may be allowed where it is found that a party behaves unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant's case is that the Council has made errors and omissions in the decision process and therefore has prevented development which should clearly be permitted.
4. There are some minor inaccuracies in the Council's report. These include misinterpretation of the appellant's floorspace figures, lack of information about the extent of the housing land supply shortfall, and a difference in the benefit afforded to the removal of the existing buildings between this and a previous application. However, notwithstanding these I am satisfied that the Council determined the application in relation to the correct site and existing development. It will be seen from my appeal decision that these matters and the shortfall of housing land were not determinative in my assessment of the proposal. Furthermore, the weight to be given to any benefit is a matter of planning judgement.
5. In reaching its decision the Council had regard to relevant development plan policies and other material considerations in its assessment of the scheme. The appellant disagrees with the conclusions the Council reached on matters such as boundary treatment, restriction of residential paraphernalia and the assessment of the fallback scheme. However, it does not follow that the Council acted unreasonably in making its assessment. I have addressed these matters in my main decision and have not concluded that the Council has prevented development which should have been permitted

6. Some of the language used by the Council has not shown a particularly sensitive approach to the appellant as a user of its services. However, whilst regrettable, it has not affected the determination of the scheme. It therefore does not amount to unreasonable behaviour.
7. As the appellant disagreed with the Council, he has chosen to test the decision by exercising his right to appeal. However, I have no reason to believe that this has resulted in unnecessary expense in the appeal process.
8. Consequently, for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated.
9. For this reason, neither a full nor partial award of costs is justified.

H Miles

INSPECTOR