
Costs Decision

Site visit made on 24 November 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2021

Costs application in relation to Appeal Ref: APP/A2280/W/20/3265031 The Homestead, Sundridge Hill, Cuxton, Rochester ME2 1LF

- 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 S. Gill for a full award of costs against The Medway Council.
 - The appeal was against the refusal of planning permission for a proposed development described as 'change of use of land from Use Classes C3 (residential) to D1 (training) for construction industry accredited practical machinery training and siting of temporary buildings'.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and this has directly caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The application needs to clearly demonstrate that this is the case, as parties in planning appeals normally meet their own expenses.
3. The PPG provides examples of unreasonable behaviour by local planning authorities. This includes both procedural matters, such as lack of co-operation with the other parties; and substantive matters, including: preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other considerations; and, vague and generalised or inaccurate assertions about a proposal's impact which are unsupported by an objective analysis.
4. The applicant says that the Council's reasons for refusal are not supported by factual evidence. In this regard, the applicant states that the Kent County Council Biodiversity Officer's comments confirm acceptability of the proposal to the locally designated Area of Local Landscape Importance, and the Highway Consultant has demonstrated the low impact nature of the scheme. Furthermore, the applicant states that amended plans were submitted and ignored, and decision makers have been unduly influenced by the volume of objections, over-politicisation and unsubstantiated speculation that has sought to exaggerate the level of harm while not properly considering the proposals.
5. As can be seen from my decision, I have found that the proposed development would cause significant harm to the character and appearance of the

countryside, including the landscape of the Cuxton Brickfield's Area of Local Landscape Importance (the ALLI), and would have an unacceptable impact on highway safety. The Council's officer report appropriately considered the benefits and adverse impacts of the proposal, and I am satisfied that it has substantiated the reasons for its decision. Matters relating to character and landscape effects inevitably involve planning judgement, and I see no irrationality on the part of the Council. The Council notes that it is not within the remit of the Biodiversity Officer to comment on the effect of the proposal on the ALLI. It is clear to me that the Biodiversity Officer's comments principally relate to ecology rather than landscape effects. In any event, the Council is entitled to reach its own view providing that adequate reasons are given, which it has done in this case.

6. The Council indicates that it had regard to the amended plans referred to by the applicant. In any event, I have taken those plans into consideration in my decision and so this has not caused the applicant unnecessary or wasted expense in the appeal process. Furthermore, there is no substantive evidence before me that the Council was unduly influenced by the volume of objections, and I am satisfied that it properly considered the proposal having regard to national and local planning policy.

Conclusion

7. For the reasons given above, I determine that the costs application should fail and no award is made.

C Osgathorp

INSPECTOR