
Costs Decision

Site visit made on 17 February 2022

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th March 2022

Costs application in relation to Appeal Ref: APP/A2280/W/21/3280501 18 St. Pauls Close, Strood, Rochester ME2 2QH

- 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 Richard Bakare for a full award of costs against Medway Council.
 - The appeal was against the refusal of planning permission for a proposed end of terrace 2 bed house.
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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.
3. The appellant submits that the Council has acted unreasonably by failing to produce evidence to substantiate each reason for refusal on appeal, refusing to engage with the appellants, not determining similar cases in a consistent manner and preventing the development when it should have been permitted having regard to housing supply.
4. It is evident from the main decision that I have disagreed with the Council's reasons for refusing permission. Nonetheless, the reasons for the refusal set out in the decision notice relating to the character and appearance of the development and the provision of outdoor amenity space are complete, specific and relevant to the application. The officer report sets out an assessment of the indicated harm in these respects, and how they would conflict with relevant adopted planning policies. The Council's position has been further clarified in its costs response statement, providing adequate explanation of the salient points raised by the appellant.
5. Whilst I sympathise with the appellant about the perceived lack of communication during the course of the application, given that the Council indicated that the scheme was likely to be refused prior to the decision I do not consider that this amounted to unreasonable behaviour. Moreover, it is not clear that the matters under dispute could have been narrowed had the Authority engaged in more extensive discussion.

6. It is asserted that the Council acted inconsistently in its handling of the proposal when compared to an appeal decision at 14 Lincoln Close (appeal ref: 3219576). However, the full details of that case, including all of the relevant supporting information, are not before me. I further note that it has different site characteristics to the appeal scheme; consequently it is unclear to what extent that approval is directly comparable to the current proposal. I am therefore unable to conclude that the Council acted unreasonably in this regard.
7. Although the Council acknowledges that the lack of housing supply was not addressed in the delegated report, I am satisfied that the Authority would not have supported the proposal in any event. In my view, and on the basis of the evidence, it was inevitable that the character and living conditions arguments would need to be pursued at appeal.
8. Therefore I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme, and as such the appeal could not have been avoided. The Authority had reasonable concerns about the impact of the proposed development which justified its decision.
9. Although I have reached a different conclusion to the Council on the planning merits of the case, this does not mean that the Council has acted unreasonably in substantiating its reasoning only in the officer report. Consequently I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

C Hall

INSPECTOR