



Costs Decision

Site visit made on 7 July 2022

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022

Costs application in relation to Appeal Ref: APP/H2265/W/21/3282371 4 and 4A High Street, Snodland ME6 5DF

- 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 M Perry for a full award of costs against Tonbridge & Malling Borough Council.
 - The appeal was against the refusal of planning permission for demolition of existing warehouse, former shop and 3 bedroom first floor flat and redevelopment of the site with a new building incorporating 14 apartments (4 no. 2 bedroom and 10 no. 1 bedroom flats), including the rebuilding of the Art-deco front section of the building, with associated cycle store, bin store, parking and turning.
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Decision

1. The application for a full award of costs is allowed in the terms set out below.

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 Applicant has contended that the reasons for refusal were vague and generalised, and the Council has not produced any evidence to substantiate their concerns leading to a refusal of permission.
4. The application was recommended for approval by the Officers but the recommendation was overturned by Committee and the application refused. The Council is not duty bound to follow the advice of its professional officers, but if a different decision is reached, the Council has to demonstrate, on planning grounds, why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
5. In respect of the reasons for refusal I agree with the Applicant that they are very generalised and vague; it is not clear the precise planning concerns of the Council which led to the refusal of permission. I further agree with the Applicant that it is incumbent on the Council to substantiate its reason for refusal by producing relevant evidence which demonstrates the alleged harm and conflict with the development plan. This has not been done in this case; neither demonstrable harm nor conflict with the development plan, substantiated by evidence, has been shown to arise from the development.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Tonbridge & Malling Borough Council shall pay to Mr M Perry the costs of the appeal proceedings described in the heading of this decision such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Tonbridge & Malling Borough Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

L J Evans

INSPECTOR