



Costs Decision

Site visit made on 3 November 2022

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2022

**Costs application in relation to Appeal Ref: APP/Z2260/W/21/3286245
Land to the rear of 92 to 102 Monkton Street, Monkton, Ramsgate
CT12 4JQ**

- 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 Jacob Taylor, Heyhill Land for a full award of costs against Thanet District Council.
 - The appeal was against the refusal of planning permission for residential development of up to 49 dwellings.
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Decision

1. The application for an 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 basis of the application is that the Council prevented development which should clearly have been permitted in light of the findings of an Inspector in an essentially identical appeal (Inspectorate reference: APP/Z2260/W/20/3252380). The applicant asserts that the Council did not take account of the so called 'tilted balance' as set out in paragraph 11 d) of the National Planning Policy Framework (the Framework) in coming to its conclusion.
4. The Council's response is that it took a view as a matter of judgement as to the degree of harm on the character and appearance of the countryside, which was not of itself unreasonable and thus it was justified in coming to the conclusion that it did, particularly as it is agreed that the proposal is contrary to the terms of the development plan.
5. The Council accepts that it cannot demonstrate a five year supply of land for housing, which means that the tilted balance set out in paragraph 11 d) of the Framework will apply. This means it was incumbent on the Council to show that the harms significantly and demonstrably outweigh the benefits.
6. Members are not required to follow Officers' recommendations but do have to show objective reasons for not so doing. Where a proposal is contrary to the development plan it will normally be a matter of judgement as to whether the degree of harm is such that it would outweigh the titled balance.

7. However, in this case a previous Inspector had made clear that, in his view, "the landscape and visual impacts would be highly localised and the resulting harm would be minor". If the Council wanted to show that this was not the case then it needed to demonstrate why the conclusions of the previous Inspector were, at a minimum, erroneous, why it had given greater weight to another material consideration so as to affect that conclusion or that other material considerations had changed. This was not done.
8. While the Council is not obliged to follow national planning policy in the Framework it needs to show good reasons why it should not apply in the peculiar circumstances of the case. Again, this was not demonstrated.
9. I therefore conclude that in the light of the findings of the Inspector in the previous appeal, the agreed changes in circumstance which indicated that the tilted balance should apply, and a lack of evidence to show that the previous Inspector's conclusions were erroneous, that greater weight should be given elsewhere, or other material considerations had changed the Council acted unreasonably in refusing a planning permission which should have been granted.
10. Consequently, the applicant was put to the unnecessary expense of lodging the appeal and 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

11. 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 Thanet District Council shall pay to Mr Jacob Taylor, Heyhill Land, 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.
12. The applicant is now invited to submit to Thanet District 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.

RJ Jackson

INSPECTOR