

Costs Decision

Site visit made on 4 January 2023

by A. Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2023

Costs application in relation to Appeal Ref: APP/X2220/W/21/3285435 Land south of White Mill, Ash Road, Sandwich CT13 9JB

- 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 A Smith for a full award of costs against Dover District Council.
 - The appeal was against a refusal to grant planning permission under section 78 of the Town and Country Planning Act 1990 for the construction of access road and two dyke crossings.
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Decision

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

Reasons

2. 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 thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The PPG states that examples of unreasonable behaviour include failure to substantiate reasons for refusal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and acting contrary to national or local policy.
4. The applicant submits that the Council has acted unreasonably in that it imposed a condition that does not meet the tests set out within the Planning Policy Framework and Planning Practice Guidance.
5. The main appeal relates to a refusal to grant planning permission for the development of land without complying with conditions subject to which a previous permission was granted (Condition 3). I have noted the Council's reason for refusal in respect of the proposed removal of condition 3. Whilst this clearly states the policies of the development plan which the proposal is considered to conflict with, the Council has not demonstrated with any clear evidence how the proposal would harm the character and appearance of the area or ecology, as set out by the condition and reason for refusal. I have found no harm in those respects.
6. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes

unreasonable behaviour contrary to the basic guidance in the National Planning Policy Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.

7. Accordingly, I 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.

Conclusion

8. 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 Dover District Council shall pay to Mr A Smith, 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.
9. The applicant is now invited to submit to the 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.

A. Price

INSPECTOR