



Costs Decision

Site visit made on 22 November 2022

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 FEBRUARY 2023

Costs application in relation to Appeal Ref: APP/U2235/W/22/3295624 21 Station Road, Headcorn TN27 9SB

- 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 Mrs A Porter for a full award of costs against Maidstone Borough Council.
 - The appeal was against the refusal of planning permission for construction of two no. three-bed detached dwellings with dedicated off-street parking and associated hard and soft landscaping; utilising existing highways access and including alterations to drop kerb and new access driveway.
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Decision

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

Reasons

2. Planning Policy Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 applicant contends that the Council's report does not deal with the planning application on its own merits. Further, the applicant has stated that the Council has failed to provide evidence to substantiate the reasons for refusal.
4. Paragraph 049 of the Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. The reason for refusal set out in the decision notice relates to the impact on character and appearance. It is complete, precise, specific and relevant to the application. It also clearly states the policies of the Maidstone Local Plan (2019) that the proposal would be in conflict with. The officer report and the Council's Statement of Case provide a detailed explanation as to why the Council refused the proposal. The Council has clearly identified a distinction between finding the design of the individual houses acceptable when viewed in isolation, whilst identifying harm as a result of overdevelopment of the site due to the quantum of proposed development, including the introduction of a parking court. Whilst I appreciate that the outcome of the application will have been a disappointment to the appellant, the Council were not unreasonable in coming to that decision,

and indeed following consideration of the application on its merits alone, I find no reason to disagree with the Council's conclusions.

6. The applicant submits that the Council has provided no evidence of harm to trees to support the second reason for refusal. However, for the reasons set out in the appeal decision I too have concerns regarding the impact of the proposal on the trees covered by a Tree Preservation Order (TPO). Consequently, I do not consider that the information provided by the applicant, which amounts to a Tree Survey, without detailed mitigation measures, sufficiently demonstrates that the proposal would not have a detrimental impact on the health of the trees.
7. The Council's officer report contains a section in relation to trees and landscaping which includes sentences which relate to a different form of development in a different settlement. These incorrect references are a particularly unfortunate error. However, regardless of the error, the reason for refusal related to the impact on trees is precise, specific and relevant to the application. As I have found that sufficient information to overcome the reason for refusal has not been submitted, I find no substantive evidence that the applicant incurred any additional expense as a result of erroneous references within the officer report.
8. The applicant contends that it is unreasonable for the Council to suggest that they provide a timely pre-application service, as their experience on an unrelated site is that the pre-application service is lengthy. As a result, the appellant did not seek pre-application feedback for this application. I am unable to comment on the pre-application service in relation to a separate site. There is no conclusive evidence before me that, had the appellant sought pre-application advice in relation to this application, they would not have received a timely response.
9. The appellant submits that they are unable to appreciate the relevance of the appendix included within the Council's response to their costs claim, and that they have had to expend additional time reviewing the document. Having reviewed the appendix, I also struggle to see the relevance of the appendix and do not understand the purpose of its inclusion. However, whilst the inclusion of this appendix must have caused the appellant some concern, it is a relatively short document which would not have taken a significant amount of time to review. As a result, I find no substantive evidence that the appellant incurred additional expense as a result of this appendix.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

B Pattison

INSPECTOR