



Costs Decision

Site visit made on 29 February 2023

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Costs application in relation to Appeal Ref: APP/G2245/W/22/3304519 Rough Close Swan Lane, Edenbridge, TN8 6AJ

- 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 Alan Fuller for a full award of costs against Sevenoaks District Council.
 - The appeal was against the refusal of planning permission for demolition the construction of 1 new detached house, including new access road.
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Decision

The application for an award of costs is refused.

Reasons

1. 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.
2. As well as costs associated with the appeal, the appellant has included a claim for costs relating to matters relating to the processing of the appeal application by the council. Claims can only be made for costs that are directly related to an appeal, for example, time preparing for an appeal and the use of consultants to provide detailed technical advice. As such, it would not be possible to award costs associated with the handling of the planning application by the council, or advice provided on previous proposals. These concerns are addressed in the appeal decision.
3. It is evident from the officer report that the case officer sought the views of the County Ecologist, as the officer report sets out their views. However, it is unclear whether the ecologist viewed the updated PEA, because some of the comments in the officer report are more pertinent to the original PEA. It refers to the presence of bat droppings and there is no reference to the fact that the appellant had agreed to apply for a District Level License (DLL). Instead, it refers to the need for a European protected species license for both bats and great crested newts.
4. However, the appellant did not submit a DLL and ecology did have to be addressed as part of the appeal. As such, whilst this matter did amount to unreasonable behaviour on the part of the council, it did not result in either an unnecessary appeal or the need to address an unnecessary reason for refusal. Any costs incurred by the appellant in dealing with this matter would be negligible.

5. The highway authority provided feedback on several revised/additional drawings and sought additional details/clarification regarding the proposal. This was partly due to the absence of details on some of the newly submitted drawings and partly due to the need for clarity regarding the plans and proposed visibility splays. This took place over a six-month period which does reflect a pro-active approach. The Council had concerns relating to the impact of the scheme on the character and appearance of the local area and had raised similar concerns in relation to a previous proposal. For this reason, I find that the council did not act unreasonably in refusing to accept further evidence, to enable them to complete their consultations and determine the application.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Elizabeth Lawrence

INSPECTOR