
Costs Decision

Site visit made on 20 September 2023

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04.10.2023

Costs application in relation to Appeal Ref: APP/E2205/W/22/3310283 Hill Foxes, Ravensdane Wood, Charing TN27 0NJ

- 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 Lee Cooper for a full award of costs against Ashford Borough Council.
 - The appeal was against the refusal of planning permission for demolition of a dilapidated flat roof concrete barn, and unused garage. Construction of new part one storey, part two storey 4 bedroom dwelling to same footprint of barn and garage. Building to be SIP Panel construction clad with timber cladding to respect surrounding trees. New vehicular access to be created from road (or alteration of existing barn access). Land to be divided into two plots. Couple of trees to be removed for new patio area. New trees and bushes to be planted along new dividing boundary and along boundary with road, to provide privacy screening. Isolation and diversion of existing cess pit. New cess pit to be installed for Hill Foxes.
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Decision

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

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 appellant submits that the Council has acted unreasonably due to a lack of co-operation throughout the planning application process, by failing to produce evidence to substantiate each reason for refusal on appeal, making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, and prevented the development when it should have been permitted.
 4. Whilst I can understand the applicant's frustration at the scarcity of communication from the Council and the delay in determination, I have seen no sufficiently compelling evidence of unreasonable behaviour. I recognise that the Council does have a responsibility to determine applications in a timely manner, still one email from the Authority did at least indicate that due to high volumes of work and resource pressures, it was very likely that the application may take longer than the statutory time frames.
 5. The appellant's other concern relates to the Council's assessment of the location of the site for housing. To my mind, the delegated report sets out an appropriate analysis of the indicated harm in this respect, and how it would conflict with relevant adopted planning policies. Moreover, the reason for the
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refusal in the decision notice is complete, specific and relevant to the application. It clearly states the policies of the Development Plan with which the proposal would be in conflict. It is not therefore the case that the appeal could have been avoided, and as such unnecessary expense has not been incurred. Moreover, I have found that the Council had justifiable objections about the proposal in my findings on the appeal.

6. Therefore I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme. The Authority had reasonable concerns about the impact of the proposed development which warranted its decision.
7. Consequently I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

C Hall

INSPECTOR