



Costs Decision

Site visit made on 16 January 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd February 2024

Costs application in relation to Appeal Ref: APP/U2235/W/23/3323307 Neverend Farm, Pye Corner, Ulcombe, Kent ME17 1EF

- 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 J Gilham for a full award of costs against Maidstone Borough Council.
 - The appeal was against the refusal of an application planning permission for the use of land for the stationing of holiday log cabins (13 twin-unit caravans) and associated bases, roads, decking, veranda, lighting and drainage details, plus use of existing vehicular access on to Pye Corner.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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. Paragraph 049¹ of the PPG highlights the examples of unreasonable behaviour by Local Planning Authorities (LPA) where costs can be awarded. The applicant has submitted that Maidstone Borough Council as LPA and Kent County Council as Highways Authority (HA) have acted unreasonably in that they failed to produce evidence to substantiate each reason for refusal at appeal. The applicant also claims the LPA and HA prevented and delayed a development that should have been permitted, by requesting unreasonable information, which they subsequently failed to respond to in a timely manner.
4. The reasons for refusal are set out in the officers' report and the decision notice, and are complete, precise, specific and relevant to the application. The LPA clearly referenced the relevant policies of the Maidstone Borough Local Plan, adopted October 2017 and the National Planning Policy Framework which formed the LPAs development plan at the time of its decision. I find in reaching a decision the LPA did consider the proposal against the relevant development plan policies and in respect to all appropriate matters, reached a conclusion that was objective and reasoned in its analysis. As such I am satisfied that the Council has shown that it was able to substantiate their reasons for refusal.
5. The applicant also contends that they incurred wasted expenditure, as the LPA requested a Visual Impact Assessment (VIA) on the impacts on the countryside and the HA requested further information which necessitated an updated Transport Statement (TS) to ensure that the concerns of the HA were

¹ Appeals Paragraph: 049 Reference ID: 16-049-20140306

addressed. I would acknowledge that the LPA did not appear to have specifically taken account of the submitted VIA as part of their appeal statement, nor have any additional comments been received from the HA in respect to the updated TS as part of the appeal.

6. Notwithstanding the lack of communication and further assessment by both the LPA and HA with regard to this information, without the additional evidence contained in the VIA and the updated TS, I would have been unable to reach my conclusion in regard to the appeal. In this respect, I do not find that the production of the additional information was an unnecessary step in the appeal process nor that it caused wasted expense.
7. Nevertheless, I do find that neither the LPA or the HA acted in a communicative, timely or pro-active manner as advised by the PPG. Whilst I understand the applicant's frustration with both the LPA and HA regarding their handling of the application and appeal and the poor communication during the process, as stated the LPA nevertheless did reach a reasoned decision in refusing the scheme.
8. Consequently, despite my alternative findings to the LPA in respect to the planning application, I find that there was no unnecessary or wasted expense in providing additional information to address the LPA and HA's reasons for refusal. As parties in planning appeals and other planning proceedings normally meet their own expenses, I therefore find that unreasonable behaviour by the LPA or the HA, resulting in unnecessary and wasted expense, as described in the PPG, has not been demonstrated and that no award of costs is justified.

Robert Naylor

INSPECTOR