



Costs Decision

Site visit made on 8 May 2024

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th June 2024

Costs application in relation to Appeal Ref: APP/M2270/C/23/3329626 Land at Top Lodge, Pembury Road, Tonbridge, Kent TN11 0QG

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Tunbridge Wells Borough Council for a full award of costs against Mr Gavin Linsdell.
 - The appeal was against an enforcement notice alleging the construction of gymnasium outbuilding within the curtilage of a listed building.
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Reasons

1. 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. The Council are applying for a substantive award of costs relating to the issues arising from the merits of the appeal. They suggest that, as this development has been subject of a previous unsuccessful appeal (reference APP/M2270/W/22/3291698), it was unreasonable for the appellant to make this appeal.
2. The appellant has a right to appeal the enforcement notice. In principle, therefore, it is not unreasonable to have submitted this appeal. The Council suggest that the appellant has not reasonably considered the comments made by the previous Inspector relating to the harm arising to the identified heritage assets and their setting from the development. They also suggest that the appellant has made limited reference to the National Planning Policy Framework and development plan policies.
3. Nevertheless, the appellant has made a number of additional points that appear not to have been made during the course of the previous appeal. The Council acknowledge this. These factors need to be taken into account in this appeal. I have come to the conclusion that they are not sufficient to outweigh the harm that I, and the previous Inspector, have found to the heritage assets. However, they were factors that ought to be considered.
4. I note that the appellant had intended to challenge the previous appeal decision through the courts. That carries very little weight in determining whether it was reasonable to make this appeal.
5. For these reasons, on balance I consider that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted on this occasion.

Decision

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

AJ Steen

INSPECTOR