



Costs Decision

Site visit made on 30 May 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2024

Costs application in relation to Appeal Ref: APP/U2235/W/23/3335240 Land Off Forest Hill, Tovil, Maidstone, Kent ME15 6FG

- 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 Marios Stylianides for a full award of costs against Maidstone Borough Council.
- The appeal was against the refusal of planning permission for development described as '2 x 4-bedroom dwellings with associated car parking and landscaping'.

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. Unreasonable behaviour by local planning authorities can include preventing or delaying development which should clearly be permitted.
3. The Appellant seeks a full award of costs on the grounds that the Council declined to consider additional evidence submitted prior to its decision. This notably included the Reptile Method Statement¹ (RMS) submitted in response to matters raised by the Council's ecological Consultee. It is more specifically alleged that the ecological issues could have been resolved, had this evidence been considered.
4. Correspondence provided by both parties confirms that the Appellant sought an update on the application in early November and was directed towards the Council's website, where consultation responses had been published. The RMS was prepared in response to the ecological consultation response. The Appellant subsequently contacted the Council around three weeks later, seeking an extension of time, so that this evidence could be considered. However, the application was determined the same day.
5. Although the RMS was prepared in response to the specific matters raised during consultation on this application, the site has a fairly lengthy planning history, which is referenced in the Preliminary Ecological Appraisal (PEA) dated April 2023². The PEA refers to evidence of slow worms on the site in a 2017 survey, and therefore recommends undertaking an updated reptile survey. The

¹ Calumma Ecological Services Reptile Method Statement dated November 2023

² Lewis Ecology Preliminary Ecological Assessment and Biodiversity Assessment April 2023

presence of slow worms was also noted in the 2022 appeal decision³. It is clear from the Inspector's reasoning that identifying a suitable receptor site for translocation, with an appropriate legal mechanism to secure implementation, was known to be a relevant issue at that point.

6. Against that background, the Council's expectation that the ecological issues could have been fully resolved through pre-application discussions is not unreasonable. Instead, the RMS was provided only a few days before the statutory deadline for determination of the application, which would not have allowed for further technical consultation on its contents. While there is provision for an extension of time to be agreed between parties to a planning application, the general expectation is that Councils will make their decision within the statutory time limit where possible and the Council's actions were in line with that expectation.
7. In addition, before determining the application, the Council had informed the Appellant that refusal was likely on grounds including the effect on the character and appearance of the area. This issue would not have been addressed by the evidence submitted in late November. Therefore, although I have reached a different view on that issue, there is no clear evidence that the appeal as a whole could have been avoided.
8. For the reasons given above, I find that the Council's behaviour when determining the application was not unreasonable and did not prevent or delay development which should clearly be permitted. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Jane Smith

INSPECTOR

³ Appeal Ref: APP/U2235/W/21/3272436, determined 8 July 2022