



Costs Decision

Site visit made on 16 August 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 OCTOBER 2024

Costs application in relation to Appeal Ref: APP/M3645/W/23/3329914 Land to the rear of Station Road East, Easting: 539490 Northing: 152892

- 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 Stewart Charlett of Blades Heating Ltd for a full award of costs against Tandridge District Council.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of 2 dwellings, parking and landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The application sets out that the Council's Committee went against the Planning Officer's report and recommendation that the application be approved. It is stated that the Council has failed to substantiate the three reasons for refusal related to existing and future occupiers' living conditions and character and appearance.
4. The PPG indicates that local planning authorities will be at risk of an award of costs being made against them if they fail to produce evidence to substantiate each reason for refusal. In this case, I have noted the recommendation of the Council's Officers. However, the decision is one which is a matter of judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a case could be made for the contrary view.
5. Following the Committee's resolution to refuse the planning application, the Council issued its Decision Notice. That sets out the reasons for refusal, which are complete, precise, specific and relevant to the development proposed, and detail the alleged harm and relevant local and national planning policies that Members allege the proposal conflicts with. Although putting forward a contrary case to the Committee Report, the Council's appeal statement subsequently elaborates on the refusal reasons, the Council's concerns with the appeal proposal and includes reasons why Members went against the recommendation of Officers. Sufficient detail was therefore provided to substantiate its position.

6. Although I have come to a different overall conclusion and allowed the appeal, this does not mean that the Council acted unreasonably in refusing the planning application.
7. The application also references alleged inconsistency inasmuch as permission has previously been granted for residential development close to the appeal site, which involved dwellings with similar or smaller sized gardens to the appeal proposal. However, these types of development are fact sensitive and site specific, turning on the individual circumstances of each case. From the evidence before me, the two sites have differences, particularly with regard to their proximity to nearby commercial servicing areas, which was also a factor in the Council's reason for refusal related to the living conditions of future occupiers.
8. The applicant outlines that it is unclear whether the Planning Committee had in its mind the seriousness of the Council's five-year housing land supply situation when determining the planning application.
9. The Committee Report clearly identified that the Council is unable to demonstrate a five-year housing land supply. As a result, Members of the Committee would have been aware of the Council's housing land supply situation when determining the application. Furthermore, the Committee Report explained the implications of paragraph 11d of the National Planning Policy Framework (2023), and also included a relevant planning balance.
10. The effect of paragraph 11d requires an exercise of planning judgment. The Planning Committee identified sufficient harm to refuse the appeal proposal for three distinct reasons. I have no evidence before me to indicate that Members did not undertake a planning balance which concluded that the adverse impacts would significantly and demonstrably outweigh the benefits of the provision of two residential units, when assessed against the policies of the Framework as a whole.
11. The applicant indicates that the Planning Committee decision was as a result of local objections and was politically motivated. However, as I have found that the reasons for refusal are specific and relevant to local and national planning policies, and that the Council's Statement satisfactorily elaborates on the refusal reasons, there is no substantive evidence that this was the case.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for costs is refused.

B Pattison

INSPECTOR