



Costs Decision

Site visit made on 8 October 2024

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th November 2024

Costs application in relation to Appeal Ref: APP/E2205/W/24/3337797 The Vicarage Church Road, Tenterden, Kent TN30 6AT

- 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 Venerable Stephen Taylor of Canterbury Diocesan Enterprises Limited for a full award of costs against Ashford Borough Council.
 - The appeal was against the refusal of planning permission for the proposed alterations to Vicarage, erection of three detached dwellings and construction of twenty bay Church car park.
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Decision

1. The application for a full 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. The applicant contends that the Council has behaved unreasonably on both procedural and substantive grounds for the following reasons: the Council has made vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis; the Council has failed to produce evidence to substantiate each reason for refusal; the Council has failed to determine similar cases in a consistent manner; and, the Council has provided information that is shown to be manifestly inaccurate or untrue.
4. The Council produced an Officer Report and appeal rebuttal, which provide detailed reasoning behind their decision. The Council's case is also supported by evidence from the Council's Tree Officer and Conservation Officer. Reason for refusal 1 sets out that the proposal would conflict with the National Planning Policy Framework December 2023 (the Framework) and various development plan policies. This reason for refusal is clearly connected to the other reasons for refusal due to the use of a colon. The other reasons for refusal set out the Council's reasoning. While reference to the relevant parts of the Framework would have been helpful, I have identified clear conflict with the Framework in my decision. For the reasons set out in my decision, I do not find that the evidence provided by the Council in respect to the reasons for refusal is vague, generalised, inaccurate or unfounded. Overall, I am satisfied that the Council has adequately substantiated its reasons for refusal.
5. The applicant considers that the Council has failed to determine similar cases in a consistent manner, with reference to a scheme for two houses to the rear of

16 The High Street¹. There is limited information before me on the circumstances of the consented scheme. The consented scheme was also assessed against a different policy context. Although, I appreciate that the consented scheme had a higher density, requires the demolition of a section of listed wall and removal of protected trees, the consented scheme is sited further away from the Grade I listed Church. The appeal site is also more prominent in views from the public realm and surrounding countryside than the site of the consented scheme. As a result, I find that the two schemes are materially different. Consequently, I do not find any inconsistency in the Council's decision making in this regard.

6. The applicant argues that the Council has provided information that is inaccurate or untrue by providing a misleading statement about the status of the Neighbourhood Plan. Although the Neighbourhood Plan had not been made at the time the Council submitted their rebuttal, it was at a very advanced stage. The Council advised in their rebuttal that the NP had passed the local referendum and would soon be made. The NP has subsequently been made and is therefore a material consideration for this appeal. The Council is required to update the Inspector on changes to planning policy, as they have done in this case. I do not consider the Council has provided information that is inaccurate or untrue in this regard.
7. The applicant argues that the Council failed to carry out a site visit due to their comments in respect to the scheme to the rear of 16 The High Street. The Council advises that a site visit was carried out on the 5 October 2023 and I have no reason to dispute this. I appreciate that the Council's delegated report states that it is unclear whether the scheme to the rear of 16 The High Street has been implemented. However, 'implementation' can include digging of a trench to contain the foundations of a building or the laying of any underground main or pipe to the foundations, which would not necessarily be visible from the appeal site due to the existing boundary treatment. As a result, I do not find that the Council has provided inaccurate or untrue information.
8. The applicant argues that the Council has failed to assess the benefits that the proposal would bring to the Church's Transformation Project. At the time the Council made its decision, planning permission and listed building consent had not been granted for the extension to the Church. The Council gave the Transformation Project limited weight in their decision due to the lack of legal agreement connecting the sale of the land to the Church extension. While I have given this public benefit a different level of weight in my decision to the Council, the level of weight to attach to a public benefit is a matter for the decision maker. Nevertheless, overall, I do not find that the proposed public benefits outweigh the harm. Consequently, the appeal could not have been avoided.
9. Drawing all of the above together, I do not consider that unreasonable behaviour on the part of the Council, on either a substantive or procedural basis has been demonstrated. It therefore follows that the appeal was not one that could have clearly been avoided. As a result, there has been no unnecessary or wasted expense in the process.

¹ Application ref: 18/00099/AS

Conclusion

10. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for an award of costs is refused.

A James

INSPECTOR