



Costs Decision

Site visit made on 12 November 2024

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2024

Land Adjacent 11A Beaconsfield Road, Tovil, Maidstone, Kent ME15 6RU

Costs application in relation to Appeal Ref: APP/U2235/W/24/3344791

- 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 Roger Phipps for a full award of costs against Maidstone Borough Council.
 - The appeal was against the refusal of planning permission for the demolition of existing industrial building, garage and storage shed, and erection of 3no. detached dwellings with associated parking and communal amenity area with undercroft storage.
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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. It is put to me that the Council introduced a new ground at a late stage in relation to Policy LPRQD7 of its Local Plan Review. Moreover, it is put to me that the Council provided vague, generalised or inaccurate assertions about the proposal's impact. The Council has defended its position.
4. The application was determined against the policies of its then adopted Local Plan (2017). However, that was replaced in March 2024 by its Local Plan Review. It was not unreasonable therefore for the Council to raise this during the appeal and as the 2017 Local Plan was replaced, it no longer formed part of the development plan for my assessment in the appeal.
5. The Council stipulate that they raised the conflict with Policy LPRQD7 in the context of its first reason for refusal, rather than seeking to raise a new reason for refusal. Nonetheless it will be seen from my decision that I have not found the policy to be decisive in my assessment.
6. The Council's delegated report and decision notice included reference to Policy DM9 of its Local Plan and it will be seen from my decision that I have not found that the appeal scheme falls to be considered against its replacement policy in the LPR. Moreover, I agree that the Council's delegated report and Grounds of Appeal did not fully address matters raised in its second reason for refusal. However, it will be seen from my decision that I have agreed with its findings of harm on both main issues.

7. Consequently, and considering my findings in the appeal, the Council has not delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Mr R Walker

INSPECTOR