



Costs Decision

Site visit made on 5 December 2024

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2025

Costs application in relation to Appeal Ref: APP/U2235/W/24/3344835 Land Northeast of Redwood Glade, Forge Lane, Bredhurst, ME7 3JX

- 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 David Olver and Mrs Gerarda Everett for a full award of costs against Maidstone Borough Council.
 - The appeal was against the refusal of planning permission for the construction of 3No. new dwellings including amending the access into the site from the access track and associated amenities.
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Decision

1. The application for 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 officer's report assessed the appeal proposal based on the information submitted with the application and set out reasons why the Council considered it to be unacceptable. The Appellant's appeal submissions sought to address these reasons by providing additional information which the Council suggests should have been included with the original submission. However, the Council chose not to provide an appeal statement commenting on the additional information but has used its rebuttal of the costs application to defend its decision.
4. The officer's report gave cogent reasons for finding the development would fail to conserve the landscape and scenic beauty of the KDNL and would be harmful to the character and appearance of the area. Although it emphasised the lack of an LVIA in support of its assessment, it was not unreasonable for the Council to reach its conclusion without one. Having considered the evidence from both parties, I came to a different view having regard to the specific characteristics of the appeal site.
5. I concur with the Council's assessment that the site's location would be at odds with its spatial strategy; it was reasonable for the Council to refuse the scheme on that basis. Following the adoption of the Maidstone Borough Council Local Plan Review 2021-2038 (MBCLPR), the Council can demonstrate a 5-year supply of deliverable housing sites. However, it does not follow that proposals for new homes that do not fully accord with the spatial strategy should automatically be refused. Other development in the immediate vicinity had not

- been rejected due to lack of accessibility and I took the proposal's conflict with the spatial strategy in that regard into account in the planning balance.
6. Similarly, given the site's proximity to the M2 it was not unreasonable for the Council to refuse the scheme due to concerns about the effect of noise on future occupants. However, in the absence of a noise assessment it could have refused to validate the application. Although it had the opportunity to do so, the Council did not contest the noise assessment submitted by the Appellants during the appeal process or suggest that mitigation could be secured through an appropriately worded condition. In these circumstances I chose to accept the results of the Appellants' noise assessment and imposed a condition to secure the necessary mitigation. This was consistent with the approach of the Inspector who imposed a similar condition when granting permission for another housing development close to the M2.
 7. I appreciate the Council's concerns about protected species and biodiversity. However, the material submitted with the appeal satisfied me that these matters could be addressed through the imposition of conditions. The UU provided for the strip of land adjacent to the site's northern boundary to be dedicated to biodiversity enhancement.
 8. I acknowledge that much of the material presented with the appeal should have been submitted with the application. However, the Council failed to provide any comments on it during the appeal process. This did not aid my assessment of the proposal. Furthermore, it only provided a list of potential conditions when requested to do so. For this reason, I consider that the Council did behave unreasonably during the appeal, by failing to engage with the process appropriately and seeking to justify its reasons for refusal in response to the Appellants' application for costs.
 9. However, as the additional material should have been presented with the original application, there is nothing before me to suggest that the Appellants have incurred unnecessary or wasted expense through the appeal process. On the contrary they chose to exercise their right of appeal as a means of securing planning permission, rather than submitting the additional information to the Council in the hope of securing a different decision.
 10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

S M Holden

INSPECTOR