



Costs Decisions

Hearing held on 11 December 2024

Site visit made on 11 December 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 March 2025

Costs application A in relation to Appeal Ref: APP/J2210/W/24/3351458

Land adjacent to Old Thanet Way, Whitstable CT5 3EH

- 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 Aspire LPP for a partial award of costs against Canterbury City Council.
- The appeal was against the refusal of planning permission for the erection of a care home (Use Class C2), as well as the formation of a new access, parking, landscaping and open space. All matters in detail except landscaping.

Costs application B in relation to Appeal Ref: APP/J2210/W/24/3351458

Land adjacent to Old Thanet Way, Whitstable CT5 3EH

- 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 Canterbury City Council for a partial award of costs against Aspire LPP.
- The appeal was against the refusal of planning permission for the erection of a care home (Use Class C2), as well as the formation of a new access, parking, landscaping and open space. All matters in detail except landscaping.

Decisions

Costs Application A

1. The application for a partial award of costs is refused.

Costs Application B

2. The application for a partial award of costs is refused.

Reasons

3. 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.
4. The general principle embodied within the PPG is that the parties involved should normally meet their own expenses. The PPG gives examples of unreasonable behaviour. For local authorities these include a failure to produce evidence to substantiate a reason for refusal on appeal; refusing planning permission on a planning ground capable of being dealt with by conditions where it is concluded that suitable conditions would enable the proposed development to go ahead; and not determining similar cases in a consistent manner. For applicants these include delay in providing information or other failure to adhere to deadlines; if the appeal is

- withdrawn without good reason; and resistance to, or lack of co-operation with the other party or parties in providing information.
5. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
 6. The applicant's costs application was made orally at the hearing. In summary, the applicant argued that the Council acted unreasonably in not agreeing that there is a proven need for care accommodation in the district. The applicant set out that the Council failed to provide substantiated evidence to demonstrate why this point could not be agreed, and that the proposed development should, in their view, have been allowed on the basis of criterion (c) of Policy OS9. The applicant set out that the consultant who undertook the Care Home Needs Assessment consequently needed to prepare for and attend the hearing, resulting in wasted expense.
 7. The Council set out its response orally at the hearing. In summary, the Council stated it had not acted unreasonably, and that the decision made was one ultimately based on the planning balance of whether the harm was outweighed by the need for the development. The Council set out that this is the test at criterion (c) of Policy OS9, that this test was carried out by the Council in coming to its decision, and that this is clearly shown in the officer report. Additionally, the Council argued that the appellant's case was reliant on figures which are out of date.
 8. Whilst it appears that there was disagreement regarding the Statement of Common Ground, this forms only part of the wider suite of evidence provided. Fundamentally, the Council's reasons for refusal are set out in the decision notice for the application. These are sufficiently complete, precise, specific, and relevant to the application. In my view, the reasons for refusal were adequately substantiated by the Council in its officer report, including that the Council considered identified harm to outweigh the acknowledged benefits of the scheme. In respect of the attendance of the consultant, this was not mandatory, and I have no substantive evidence before me to demonstrate that this consultant would not have been invited to attend the hearing even if this matter had been agreed in the Statement of Common Ground.
 9. Overall, although I have come to a different conclusion to the Council, it is my view that the application for costs essentially relates to a disagreement about legitimate matters of planning judgement.

Conclusion

10. I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted in respect of claims made by either party.

A Price

INSPECTOR