
Costs Decision

Site visit made on 2 April 2025

by **C Hall BSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Costs application in relation to Appeal Ref: APP/H2265/W/24/3351858

Parking Area South of Mellinges Close, Nevill Court, West Malling ME19 6HZ

- 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 Gravesend Real Estate Company Ltd for a full award of costs against Tonbridge and Malling Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 4no dwellings comprising of 2 x 2 bedroom terrace, 1 x 3 bedroom terrace, and 1 x 2 bedroom flat over garage. Provision of associated parking spaces and ancillary works.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 appellant submits that the Council has failed to produce evidence to substantiate each reason for refusal on appeal; made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and prevented the development when it should have been permitted.
 4. Whilst I can understand the appellant's frustration with the Council's handling of the scheme, the delegated report sets out an appropriate analysis of the indicated harm in respect of the privacy of future occupants, and how the layout would conflict with relevant adopted planning policies. Moreover, the reason for the refusal in the decision notice is complete, specific and relevant to the application. It clearly states the policies of the Development Plan with which the proposal would be in conflict, and I am of the view that the Council has interpreted them correctly. Although I have come to a different conclusion on the merits of the proposal, I have seen no sufficiently compelling evidence of unreasonable behaviour in this regard.
 5. Therefore I do not consider that the Council failed to properly evaluate the application at that time. Concerns over the proximity of the units and the resultant impacts on living conditions were matters of judgement that officers were entitled to make, and I am satisfied were reasonable objections about the impact of the proposed development which warranted the decision.
 6. I have sympathy with the appellant that the Council would not accept simple alterations to the layout. The Authority's 'no amendments' approach is extremely unhelpful and to my mind runs contrary to a system that seeks to work proactively with applicants. I have not been provided with any explanation for such a draconian arrangement, particularly when written extensions of time can be agreed as set out in the Planning Practice Guidance
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category 'Determining a planning application'. Nonetheless, because I have allowed the appeal the issue ultimately falls away as any changes to the plans have not been necessary.

7. Consequently I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. An award of costs is therefore not justified.

C Hall

INSPECTOR