



Costs Decision

Site visit made on 22 May 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4th August 2025

Costs application in relation to Appeal Ref: APP/U2235/W/24/3357164 Cherry Barn, Old Tree Lane, Boughton Monchelsea ME17 4NG

- 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 Ms Christine Gibson for a full award of costs against Maidstone Borough Council.
 - The appeal was against the refusal of planning permission for Erection of 1 No. dwelling with associated parking and landscaping including part demolition of existing unauthorised structure (part retrospective) (resubmission of 22/504298/FULL),
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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. Paragraph 049 of the PPG states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal, and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant outlines that the Council requested a full Landscape Visual Impact Assessment (LVIA) rather than a Landscape Visual Appraisal (LVA) which was considered by the applicant to be more appropriate in scope. However, I have not been directed to any planning policy, local validation checklist or guidance which prescribes when a LVA would provide a more appropriate level of assessment than a LVIA. For this reason, I do not have substantive evidence that it was unreasonable for the Council to request the submission of the LVIA.
5. The applicant states that the Council confirmed that, subject to the provision of the LVIA, the proposal would be supported by officers. I have reviewed the email evidence submitted by the applicant. However, it seems to me, that the Council requested the LVIA in order to enable further and more detailed assessment of the effects of the proposal, rather than requiring its submission on the proviso that planning permission would follow. The decision to submit the LVIA with the planning application was the applicant's and I do not consider that this has resulted in the applicant incurring unnecessary or wasted expense under the appeal process.

6. The applicant outlines that the Council's conclusions on character and appearance including the effect on the local landscape include generalised assertions and fail to acknowledge the findings of the LVIA. It is also suggested that the Council's Landscape Officer accepted the findings of the LVIA in principle.
7. Issues that relate to character and appearance and landscape effects often involve matters of judgement. Within the officer report the Council clearly identify the elements which they consider harmful to the character of the area and articulate their concerns. Whilst I have not agreed with the Council's analysis in relation to these refusal reasons, the Statement of Case nonetheless produced further clear reasoning related to the effect on the landscape and the local character area, justifying how the harm is considered to be significant, and backed up by reference to current planning policies. Consequently, the Council was not unreasonable in coming to that decision.
8. In relation to the Landscape Officer's comments, they appear to outline that the LVIA follows the principles of the relevant national guidance on LVIA's and so is acceptable in principle. Notwithstanding this, even if the Landscape Officer had advanced stronger support for the findings, the Planning Officer is entitled to reach a different conclusion, providing that this is fully justified. As previously outlined, I have found that the Council's Statement of Case provides clear reasoning related to the effect on the landscape and the local character area.
9. The PPG outlines that an example of unreasonable behaviour by local planning authorities could include not determining similar cases in a consistent manner.
10. The applicant considers that the Council has been inconsistent in its decision making. I understand that the planning application was originally referred to the Council's planning committee with a recommendation for approval. Commentary within the report confirmed that, at that time, the Council considered the design and landscape effects to be acceptable. However, the application was withdrawn from the planning committee, and the Council subsequently changed their view on the design and landscape effects of the proposal. As a result, the application no longer had a recommendation for approval. Whilst this inconsistency would have been very frustrating to the applicant, the application was not 'determined' by the Council. Consequently, in this sense, it cannot be said that the Council failed to determine similar cases in a consistent manner.
11. The applicant also outlines that in refusing a previous application at the appeal site (Ref: 22/504298/FULL), the Council did not include a reason for refusal related to the principle of development and the accessibility of the site. The planning application related to a single dwelling at the same appeal site. Whilst I note the Council's comments in relation to the principle of development assessment in the officer report for the previous application, in this instance I consider that the Council did behave unreasonably by not determining similar cases in a consistent manner.
12. However, as the Council also refused the application which is the subject of the appeal before me for other reasons related to character and appearance and landscape, it seems to me, that the appeal process could not have been avoided altogether. Given the above, the applicant would have needed to appeal the decision of the Council anyway to gain permission for the development.
13. Therefore, having considered all the evidence put forward by the parties, I consider that the appeal could not have been avoided and that the applicant has

consequently not been put to unnecessary expense as a result of the Council's actions.

Conclusion

14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

B Pattison

INSPECTOR