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## Costs Decision

Site visit made on 13 March 2017

**by David Reed BSc DipTP DMS MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 3 April 2017**

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### **Costs application in relation to Appeal Ref: APP/Z2260/W/16/3164748 66 Monkton Road, Minster, Ramsgate CT12 4EE**

- 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 Crabtree & Crabtree (Minster) Ltd for a full award of costs against Thanet District Council.
  - The appeal was against the refusal of planning permission for the change of use of land and erection of 36 dwellings with construction of new access from Monkton Road, associated new internal access roads, drainage and landscaping.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only 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. In this case, the appellant argues that the Council acted unreasonably in refusing the application contrary to the advice of its planning officers. This led to an unnecessary appeal, wasting both time and expense in order to obtain planning permission which should have been granted by the Council.
4. The Council, acting in its role as local planning authority, is not bound to accept the advice of its officers providing there are reasonable grounds for taking a contrary decision and evidence is produced to substantiate each reason for refusal on appeal. The application was refused for two reasons.
5. The first was that the loss of this open countryside site would be detrimental to the rural character of the area and reduce the gap between the villages of Minster and Monkton. However, no detailed evidence was submitted to support this assertion or dispute the appellant's landscape appraisal report. The site is visually very well contained and does not contribute to the open countryside gap between the two villages.
6. The second reason was that the proposal would result in significant harm to the character and setting of the Grade II listed building Eden Hall. However, the initial report to Committee indicated that the Council's Conservation Officer had no objection to the proposal, observing that the development could be designed in a manner that would not affect the setting of the listed building and that this could be dealt with at reserved matters stage. The subsequent

objection of the Conservation Officer includes little new information to justify a different view and therefore does not comprise persuasive evidence.

7. In summary, neither of the Council's reasons for refusal were supported by clear or substantive evidence at appeal. Importantly, in the absence of a five year supply of deliverable housing sites, the policy test in paragraph 14 of the National Planning Policy Framework is that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The need for additional housing in Thanet is not in dispute and the two adverse impacts of the proposal identified by the Council fell so far short of this policy test that to pursue them at appeal was unreasonable.
8. The Council therefore behaved unreasonably in refusing the application without adequate reasons that could be substantiated at appeal. By delaying a development which should clearly be permitted the Council have acted unreasonably and caused the appellant unnecessary and wasted expense in needing to pursue an appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

### **Costs Order**

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Thanet District Council shall pay to Crabtree & Crabtree (Minster) Ltd, the costs of the appeal proceedings described in the heading of this decision.
11. The applicant is now invited to submit to Thanet District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*David Reed*

INSPECTOR