
Costs Decision

Site visit made on 20 September 2016

by Debbie Moore BSc (HONS) MCD MRTPI PGDip

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

Decision date: 5th October 2016

**Costs application in relation to Appeal Ref: APP/X1118/W/16/3149656
Oakleigh, Road from Forches Cross to Abbotsmarsh Wood, Burrington,
Devon EX37 9NF.**

- 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 Michael Hill for a full award of costs against North Devon District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for prior approval for a "simple apex roofed wooden building for secure and dry storage of processed woodland produce and forestry enterprise management".
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Decision

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

Reasons

2. 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 applicant maintains that the application for prior approval was incorrectly declared by the Council to have been received later than it actually was. Therefore the notification that prior approval was required was not made within 28 days following receipt of the application, as required by the conditions set out in E.2. (1)(c) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
 4. The applicant's agent states that he paid the required fee on the afternoon of Friday 9 October 2015 but the Council maintains that it was received on Monday 12 October 2015. Both parties have submitted evidence to support their statements. However, I find that this is inconclusive. In any event, there is no evidence that the Council mishandled the administration of the application, only that there is a disagreement over when the fee was paid. This does not amount to non-compliance with procedural requirements.
 5. The applicant also cites a general lack of co-operation by the Council. Whilst it seems that emails to Council officers from the applicant's agent have been unanswered, this appears to be due to changes in personnel. Also, there is evidence of continued correspondence between the parties in relation to the site.
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6. The applicant considers that the Council has introduced irrelevant information. However, I find that the information supplied by the Council in relation to the appeal was relevant as it is important that the planning history of the site is set out in full. It is not uncommon for parties to refer to previous appeal decisions, as both parties have done in this case.
7. I have considered the information supplied by the applicant in relation to the Council's handling of other applications for prior approval and I do not find this relevant to the costs application before me.
8. In conclusion, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Debbie Moore

Inspector