

Costs Decision

Hearing held on 4 October 2016

Site visit made on 4 October 2016

by Joanna Reid BA(Hons) BArch(Hons) RIBA

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

Decision date: 04 November 2016

Costs application in relation to Appeal Ref: APP/Q1153/W/16/3149586 Holly Berry, Thorndon Cross, Okehampton EX20 4NE

- 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 D Winther for a full award of costs against West Devon Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for erection of charity kennel building and cattery buildings.
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Decision

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

The submissions for Ms D Winther

2. The costs application was submitted in writing.

The response by West Devon Borough Council

3. The response was made in writing.

Reasons

4. Planning Practice Guidance (PPG) advises that, where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
5. The application was made in a timely manner.
6. The application included a noise impact assessment and a management strategy. The environmental health officer had not objected, and the Council's officer's report recommended that the proposed development should be approved subject to conditions. However, planning authorities are not bound to accept the recommendations of their officers.
7. Members of the Council's planning and licensing committee visited the appeal site and neighbouring properties. At the Council's committee meeting the appellant's agent explained why the noise impact assessment based on BS 4142:1997 *Method for Rating industrial noise affecting mixed residential and industrial areas* was considered to be appropriate, and that a condition could be imposed seeking compliance with the management strategy. Taking into account relevant factors including Development Plan policy and what it had read, heard and seen, using its knowledge of the locality, and exercising its

judgment, the Council came to its view that the proposed development should be refused.

8. Whilst some local residents chose to commission professional noise evidence during the appeal process, and that has been considered in my appeal decision, the Council was satisfied that it could exercise its judgment. It was not satisfied that the noise and disturbance from dog barking associated with the development could be adequately controlled. So, the Council's behaviour in not commissioning technical evidence was reasonable. The Council suggested a condition in its appeal statement seeking compliance with the appellant's management strategy, so the Council took it into account.
9. The Council's reason for refusal is reasonably complete, precise, specific and relevant to the application. The Council has submitted most of the relevant material in a timely manner during the appeal process, and the 2 Councillors present and the Council's officer were cooperative at the hearing. Thus, the Council's behaviour was reasonable.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Joanna Reid

INSPECTOR