
Costs Decision

Site visit made on 21 November 2016

by Thomas Bristow BA MSc MRTPI

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

Decision date: 16 December 2016

Costs application in relation to Appeal Ref: APP/U1105/W/16/3156902 11 Silver Street, Ottery St Mary, Devon EX11 1DB

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Ashcom Developments Ltd for a full award of costs against East Devon District Council.
 - The appeal was against the refusal of planning permission for the construction of a dwelling in rear garden.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, the Planning Practice Guidance (the 'Guidance') sets out that 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.¹
3. The appellant's claim relates to substantive matters, i.e. the basis on which the Council reached a decision regarding the merits of the proposal.² The appellant's arguments focus on matters of character and appearance related to the development proposed via appeal Ref APP/U1105/W/16/3156902, and I have therefore approached the costs application in in this context.
4. Whether a proposal is acceptable in respect of character and appearance is inherently a matter of planning judgment; this is rarely an issue which can be settled with reference to exact metrics. Whilst this does not mean that such judgements can be reached in the abstract, it is not the purpose of this costs decision to establish whether the Council's position in respect of the merits of the development proposal was correct. I will therefore consider here whether or not it has been demonstrated that the Council's judgement in respect of the proposal was based on appropriate evidence.³

¹ Reference ID: 16-030-20140306.

² With particular regard to bullet points 1-3 of Guidance Reference ID: 16-049-20140306.

³ I would note here that Members are not bound to accept the recommendations of officers in respect of whether development proposed is acceptable. However in doing so they must take account of material planning considerations and relevant evidence.

5. My attention has been drawn to a transcript of the committee meeting where the proposal was considered, the accuracy of which is not disputed by the parties. This transcript demonstrates that the discussion at committee related not only to the design of the proposal and its external materials, but to its size, situation within its plot, and to the relationship of the proposal to the surrounding built environment (both visually and in respect of the prevailing pattern of development). Reference is therein made to the officer report which recommended approval, which in turn refers to the points made by the appellant in support of the proposal.
6. Whilst the Council's reasons for refusal given within their decision notice are briefly stated, detailed consideration is given within paragraphs 7.2 to 7.10 of the Council's appeal statement as to the effect of the proposal. Here reference is made to the scale of the dwelling proposed, the confines of the plot, its integration with the character of the surrounding environment, and indeed to the benefits of the proposal relative to the harm that the Council considered would arise.
7. Although I have reached a different conclusion as to the acceptability of the development proposed to that of the Council, for the above reasons it cannot in my view be said that the Council failed to act reasonably in considering the effects of the proposal based on suitable evidence. As a consequence I cannot conclude that the proposal should clearly have been permitted, or that the Council acted unreasonably in ultimately reaching a different judgement on the acceptability of the proposal than that recommended by officers.
8. For the above reasons, and taking account of all other matters raised, I conclude that unreasonable behaviour resulting in unnecessary expense has not been demonstrated. With reference to the approach in the Guidance, an award of costs is therefore not justified in this instance.

Thomas Bristow

INSPECTOR