
Costs Decision

Site visit made on 5 June 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 8 August 2017

**Costs application in relation to Appeal Ref: APP/Q1153/W/16/3159610
Meadow View Farm, Road from Beare Farm to Farthingland Cross,
Exbourne, Devon EX20 3SH**

- 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 J Carvil for a full award of costs against West Devon Borough Council.
 - The appeal was against the refusal of planning permission for rural workers live/work unit of accommodation.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The 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 another party to incur unnecessary or wasted expense in the appeal process.
 3. The planning application remained undetermined at the end of the statutory period but the parties agreed an extension of time, in the interests of finding a mutually acceptable solution. It is unclear what solution the Council had in mind, given its obvious misgivings regarding the provision of temporary living accommodation within a permanent structure, and its reluctance to use a planning condition to secure removal of the residential use after the trial period. The case officer placed the onus squarely upon the appellant to find a resolution and made no positive suggestions of his own.
 4. Of course, there is nothing fundamentally wrong with a local planning authority finding a proposal to be unacceptable. However, in such circumstances permission should be refused promptly. In this case, the appellant was left in a state of limbo. Email communications from the Council were reactive, with officer workloads often being cited as a reason for delayed responses. Having agreed to an extension of time, the Council had a responsibility to be more pro-active, in line with Government policy set out in paragraph 187 of the National Planning Policy Framework. In my opinion, its continued procrastination represents unreasonable behaviour.
 5. Notwithstanding this, I am not convinced that the appellant's costs in going to appeal could have been avoided. Given what I have seen of the email exchanges, an appeal was almost inevitable. In the event, I have considered the appeal *de*
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novo, as I am entitled to do under S79(1) of the Act, and have found the proposal to be unacceptable for the reasons set out in my decision. It follows that the appellant's evidence was a necessary part of the appeal process.

6. Regardless of any feelings of frustration on the part of the appellant, justified though they may be, the Council's handling of the application has not resulted in unnecessary or wasted expense in the appeal process. Consequently, an award of costs is not justified.

Robert Parker

INSPECTOR