
Costs Decision

Site visit made on 15 November 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 06 December 2017

Costs application in relation to Appeal Ref: APP/P1133/W/17/3181050 La Falaise, 9 Old Teignmouth Road, Dawlish, Devon EX7 0NJ

- 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 and Mrs Heinz Korzenietz for a full award of costs against Teignbridge District Council.
 - The appeal was against the refusal of planning permission for the “erection of 3 dwellings within curtilage of existing bungalow”.
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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. The application has been made in a timely manner as required by the PPG.
3. The planning application had been recommended for approval by the Council’s planning officers. With respect to the main issue identified within my appeal decision I have agreed with that recommendation and allowed the appeal. However it does not follow automatically that the Council refused planning permission or defended its case in an unreasonable way.
4. The Planning Committee of the Council is not obliged to accept the recommendations of their planning officers. The PPG makes clear that the aims of the costs regime includes encouraging local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case and not to add to development costs through avoidable delay.
5. The report to the Planning Committee set out a detailed explanation of why the development that had been revised from the original submission to overcome various expressed concerns, was acceptable. This report included a distinct difference of professional opinion between the Council’s Landscape Officer and the Planning Officer. This in itself demonstrates that to some degree, the decisive issue within the appeal was a matter of opinion with there being tensions between different opinions of professional officers. Members of the planning committee, as evidenced within the committee minutes, following a site visit considered that the proposal was unacceptable. Members did give

weight to the objections to the proposal but that is not unreasonable given that they are elected to represent local people. Some aspects of the objections were not followed when making the decision which enabled the matters in dispute to be kept within narrow parameters.

6. The expression 'overdevelopment' was used within the decision. This is a somewhat vague term. However it was clear enough to me from the Council's appeal statement what detailed concerns lay behind that expression. I knew what I needed to consider when visiting the site and then when making my decision. The reliance upon the Landscape Officer's views is understandable given what committee members thought of the scheme. Use of this as a basis of the appeal statement helped to explain a view of how the development could be considered even though I did not agree with it.
7. Overall, I do not consider that the way in which the Council dealt with the planning application or how it defended the appeal was unreasonable. An award of costs in part or in full is not justified and the application fails.

Andy Harwood

INSPECTOR