
Costs Decision

Site visit made on 27 November 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 19th December 2017

Costs application in relation to Appeal Ref: APP/X1118/W/17/3180290 Land at Westmead Close, Braunton EX33 1NL

- 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 Neil Meldrum of Pixar Property Ltd for a full award of costs against North Devon District Council.
 - The appeal was against the refusal of planning permission for residential development.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 application for an award of costs focuses mainly on the involvement of the Council's Landscape and Countryside Officer (LCO). It is alleged that this officer gave support to the proposal at pre-application stage and agreed to defer to the advice of an independent arboriculturalist. The appellant is aggrieved that, following receipt of this advice, the LCO proceeded to object to the application after a significant delay in providing comments.
4. The Council does not dispute the above version of events and has not attempted to explain the LCO's apparent volte-face. I can therefore appreciate the appellant's frustration at the mixed messages being given regarding the development of this site. Be that as it may, the role of the LCO in the planning application process was as a consultee. The case officer was ultimately responsible for making the recommendation on whether or not to grant planning permission.
5. The decision to refuse permission was made taking into consideration not only consultee advice but also the comments of the previous Inspector who raised concerns regarding the loss of the open nature of the site. As I have explained in my decision, I share the same concerns in relation to the current scheme and this led to the appeal being dismissed. Thus it follows that the appellant's evidence on character and appearance matters was a necessary part of the appeal process, notwithstanding my finding that there would be no harm to the trees on the site. The appeal did not turn solely on the tree issue.

6. Whilst I can understand the appellant's annoyance at the length of time taken by the LCO in providing comments, I accept that it was appropriate for the case officer to hold back determination of the application until that advice was received. In any case, I am not aware that the delay has incurred the appellant in any additional expense in the appeal process.
7. In conclusion, I find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Robert Parker

INSPECTOR