



Costs Decision

Site visit made on 9 January 2018

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 May 2018

Costs application in relation to Appeal Ref: APP/K1128/W/17/3187008 Land at Venn Farm, Brixton, Devon

- 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 South Hams District Council for a full award of costs against Mr Patrick Colledge of Grevan Ashmont Retirement.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for outline planning permission for erection of circa 25 age restricted (55+) bungalow/chalet bungalow dwellings, allotments, public open space and visitor car park (all matters reserved).
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Decision

1. The application for a full award of costs is allowed in the terms set out below.

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 Council registered the application but subsequently took the view, some way into the determination process, that it was invalid on the basis that the red line did not extend around the whole site being proposed for development, or the means of access from the public highway. The delay in notifying the appellant of this issue was, quite understandably, a source of frustration. However, there was a simple and straightforward remedy which was to submit a revised site location plan which satisfied the requirements of the PPG¹. This would have meant the proposal being re-advertised, but it would not have held up the progress of the application significantly.
4. For reasons unknown, the appellant rejected the Council's suggestions. Given the clear and unequivocal statement in the PPG about national information requirements and what information should be shown on the site location plan, this reaction was unreasonable. The PPG² states that both the applicant and local planning authority should make every effort to resolve disagreements about the information needed to support a planning application. In adopting an antagonistic stance the appellant failed to heed this advice.

¹ Reference ID: 14-024-20140306

² Reference ID: 14-049-20140306

5. In all probability, the application would have ended up at appeal in any event, given the nature of the local planning authority's objections. However, as it stands, the Council has had to incur the wasted expense involved in taking the case to committee and preparing evidence on the planning merits of the proposal. These steps are a normal part of the planning process and may, of course, be required for any resubmission. However, the Council will need to duplicate effort by going through the process a second time, with all the officer time that would involve. Had the first application been amended in the manner suggested by the case officer in the first instance then this would be avoidable.
6. I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense in the appeal process has been demonstrated and that a full award of costs is justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Patrick Colledge of Grevan Ashmont Retirement shall pay to South Hams District Council, the costs of the appeal proceedings described in the heading of this decision.
8. The applicant is now invited to submit to Mr Patrick Colledge of Grevan Ashmont Retirement, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Robert Parker

INSPECTOR