
Costs Decision

Site visit made on 15 and 23 January 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 March 2019

Costs application in relation to Appeal Ref: APP/X1118/W/18/3213463 Land off Pool Lane, Mortehoe

- 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 Trevor Jordan for a full award of costs against North Devon District Council.
 - The appeal was against the refusal of planning permission for the erection of an agricultural shelter for a temporary period of 3 years to serve an establishing fruit and vegetable business on the site.
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. The application is based on the claim that the appeal was only necessary due to the inadequate determination of the proposal. A full award is sought because the Council should have approved the application at first instance, thereby preventing the need for the appeal. The appellant was also unable to understand the Council's case because the full delegated Officer's report was only made available when I requested it as part of the appeal process.
4. The Planning Practice Guidance indicates that local planning authorities are at risk of an award of costs if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. They are also at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal on appeal or they delay providing information.
5. The Council's reasons for refusal were based on the policies of the development plan and material planning considerations. The reasoned justification for the decision was contained in a detailed delegated report. The Council provided full evidence in defence of the reason for refusal in the appeal process. The Planning Practice Guidance says that where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs. Whilst I have decided that the appeal should be allowed, I do not agree that the Council acted unreasonably in refusing the application.

6. The Council did not supply the full delegated report with the appeal documentation, but they supplied it promptly when requested. In any event, the decision notice set out clearly the Council's reasons for refusal and the relevant Development Plan policies that it had considered. It was therefore evident what issues needed to be addressed in the appellant's case. The appellant commented on the delegated report at the same time as commenting on the Council's appeal statement. I do not therefore consider that the Council acted unreasonably, or that the initial failure to supply the full delegated report led to unnecessary expense in the appeal process.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Nick Davies

Inspector