



Costs Decision

Site visit made on 30 July 2019

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2019

Costs application in relation to Appeal Ref: APP/K1128/D/19/3229699 The Old Rectory, East Portlemouth Corner to Goodshelter Cross, East Portlemouth TQ8 8PA

- 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 Ms Linton for a full award of costs against South Hams District Council.
 - The appeal was against the refusal of planning permission for conversion and extension to boathouse to form ancillary living accommodation.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Guidance states that examples of unreasonable behaviour by local planning authorities include: failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis; not determining similar cases in a consistent manner; and preventing or delaying development which should clearly be permitted.
4. The applicant's cost application is based on concerns that the Council did not rely on a refusal reason which stands up to scrutiny on the planning merits of the case and that the Council did not determine similar cases in a consistent manner, having regard to the previous applications to extend the boathouse to provide ancillary accommodation and applications for other development elsewhere on the estuary. The applicant has also expressed concerns regarding poor communication with the Council during the application process, the extended length of time taken to make the decision, and the failure of the Council to support the application after the applicant made changes to the scheme as requested by the Council.
5. The Council, in its rebuttal, has provided evidence of on-going correspondence and negotiation with the applicant and the applicant's agent, which included the submission of additional and revised supporting information and drawings, which were considered by the Council during the application determination.

- period. This process accords with advice in the Framework which encourages positive and proactive working between the parties in an attempt to address any outstanding issues prior to refusing planning permission. The Council has confirmed that during the course of the application, the applicant was advised of the requirement to retain an element of boathouse use within the building in order to secure a positive officer recommendation, and was given the opportunity to submit a revised scheme to this effect prior to the refusal being issued.
6. I have had regard to the applicant's comments on the Council's rebuttal, noting the applicant's response with respect to the retention of boathouse use within the scheme. However, notwithstanding this, I find that the Council acted reasonably during the determination of the application. Since this appeal relates to the subsequent refusal and is not against non-determination, I therefore find no substantive evidence that the applicant incurred any additional expense as a result of the time taken to determine the planning application.
 7. The reason for the refusal set out in the decision notice is complete, precise, specific and relevant to the application. It also clearly states the policies of the Plymouth and South West Devon Joint Local Plan that the proposal would conflict with at the time of the application determination (in addition to the policies of the South Hams Local Development Framework Core Strategy and Development Policies Development Plan Document which were also relevant at the date of the decision). The reason accords with the ongoing negotiations between the parties during the application determination process, and has been adequately substantiated by the Council in the planning application Officer Report. The Officer Report and the Council's costs rebuttal demonstrate that the Council had regard to the previous planning history of the appeal site and the evidence provided by the appellant of other developments along the estuary when determining the application.
 8. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme in the light of previous applications on the appeal site and elsewhere on the estuary. Therefore, the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision, and that these concerns were relayed to the applicant, who was given the opportunity to address them, prior to the decision being issued. Whilst I have allowed the appeal, I do not find that the Council was unreasonable in coming to that decision.
 9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S Leonard

INSPECTOR