
Costs Decision

Site visit made on 20 August 2019

by Nick Fagan BSc (Hons) DipTP MRTPI

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

Decision date: 9th September 2019

Costs application in relation to Appeal Ref: APP/P1133/W/19/3226606 Trinity Lodge, Buckeridge Road, Teignmouth, Devon TQ14 8LZ

- 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 Bunny Homes for a full award of costs against Teignbridge District Council.
 - The appeal was against the refusal of planning permission for demolition of the existing building and replacement with six dwellings.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby (my emphasis) caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. It is uncontested by the applicant that the Council's Planning Committee was at liberty to refuse the application contrary to officer advice. This is an incontrovertible established principle.
4. However, as I have set out in the appeal decision, it is unclear to me from reading the Council's refusal reasons how and in what way the proposed design is out of keeping with the character and appearance of the area and why it is considered that inadequate provision has been made for affordable housing.
5. It is not obligatory for a Council to submit a Statement of Case, but it would be a good idea to do so where a decision is made contrary to a written officer recommendation. In this appeal the Council's reasoning behind its refusal is opaque; for instance, there is no explanation either within the reasons themselves or elsewhere in its submissions of why the scale and massing of the proposed dwellings, or their detailed design layout or materials would be harmful. The only reasoning before me is the Committee Report, which supports the application scheme.
6. The Council's refusal reasons are insufficient in themselves to justify the refusal of permission. The Council has failed to produce evidence to substantiate each of its refusal reasons. As set out in PPG, this is one of the examples of

behaviour that may give rise to a substantive award of costs against a local planning authority¹.

7. Consequently, the Council is guilty of unreasonable behaviour. It should have justified its refusal of the application either by making the refusal reasons clearer or by providing an appeal statement that substantiated them fully.
8. But, taking into account the appellant's case, even if the Council had properly justified its case, the appellant would still have likely appealed and incurred at least the same necessary costs in doing so. Consequently, it has not been put to any additional expense.
9. Nonetheless I would suggest that, in the future, in order to prevent such judgements of unreasonable behaviour occurring again, the Council provide written Statements of Case to justify its refusal reason(s) in situations where its Planning Committee refuses permission contrary to officer recommendations for approval.
10. In conclusion, although I have found there to have been unreasonable behaviour, this has not resulted in unnecessary or wasted expense, and an award of costs against the Council is therefore unjustified.

Nick Fagan

INSPECTOR

¹ ID: 16-049-20140306