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## Costs Decision

Site visit made on 24 September 2019

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 5<sup>th</sup> November 2019.

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### **Costs application in relation to Appeal Ref: APP/P1133/W/19/3231957 Springwell View, Old Ide Lane, Exeter, Devon EX2 9RY**

- 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 Arron Pearce for a full award of costs against Teignbridge District Council.
  - The appeal was against the refusal of planning permission for erection of garage and retention of hardstanding.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) 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 applicant contends that the Council has behaved unreasonably for several reasons, on both procedural and substantive grounds: Firstly, that there has been a lack of co-operation on behalf of the Council, namely failing to send the appellant a list of suggested conditions; secondly, that the Council has failed to substantiate its reasons for refusal as no appeal statement has been submitted; and thirdly, that the Council refused the application for reasons that could have satisfactorily been addressed by condition.

### *Procedural*

4. The PPG states that examples of unreasonable behaviour by local planning authorities in relation to procedural matters include lack of co-operation with the other party and delay in providing information or other failure to adhere to deadlines.
5. The start letter sent to the Council by the Planning Inspectorate (PINS) case officer set out the procedure and dates to comply with. It required the Council to send the appeal questionnaire, supporting documents, the notification letter and list of those notified to the appellant as well as to the PINS case officer. It further required the Council to send its statement and list of conditions to the PINS case officer who, it was stated, would send a copy to the appellant. There was no requirement for the Council to send its statement or conditions directly to the appellant.

6. The Council complied with the statutory timetable for submission of documents in respect of the appeal and the instructions in the start letter. The suggested condition was forwarded to the applicant by the PINS case officer, albeit that by that time the applicant had accessed the document via the Council's website. Nevertheless, the applicant was able to deal with it in their final comments. Consequently, I conclude that the Council did not behave unreasonably in relation to this procedural issue.

### *Substantive*

7. In relation to substantive matters, the PPG sets out examples of unreasonable behaviour by local planning authorities, including: 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; and refusing planning permission on a planning ground capable of being dealt with by conditions, where it is concluded that suitable conditions would enable the proposed development to go ahead.
8. The Council are not bound to submit an appeal statement and are entitled to rely on the officer report to make their case. I do not agree with the applicant's contention that the lack of an appeal statement means that the Council has chosen not to defend the appeal. Although brief, the Council's officer report provided specific and reasoned analysis for the reason for refusal and identified where it considered the proposal was contrary to local policy. The reason for refusal was precise, specific and relevant to the application and I consider that it was adequately substantiated by the Council in its officer report.
9. The Council did not consider whether a landscaping condition could mitigate the harm it identified. I note however that no landscaping scheme was submitted as part of the application or subsequent appeal. The first mention of proposed landscaping appears to have been in the applicant's appeal statement. It was not therefore unreasonable of the Council not to consider the matter in any detail when making its decision. I have found that, given the absence of any landscaping proposals, there was insufficient information to demonstrate that the adverse effect of the proposal on the character and appearance of the area could be adequately mitigated by landscaping.
10. Consequently, I conclude that the Council's refusal reason was adequately substantiated and that, given the evidence available, there were no suitable conditions that would have enabled the proposed development to go ahead. The Council did not therefore behave unreasonably in relation to these substantive matters.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. For this reason, an award of costs is not justified.

*L McKay*

INSPECTOR