
Costs Decision

Site visit made on 21 January 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Costs application in relation to Appeal Ref: APP/U1105/W/19/3238164 12-14 Morton Road, Exmouth EX8 1AZ

- 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 J Garrett for a full award of costs against East Devon District Council.
 - The appeal was against the refusal of planning permission for the change of use of building from nursing home to 19 bed house of multiple occupation (large HMO).
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, 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 process¹.
3. The Applicant has submitted a costs application which is brief and which does not expand on the grounds on which the application is made. However, from the submissions before me, I consider that the costs application has been made on the grounds that the Council Planning Officers recommended that planning permission be granted for the appeal scheme, but that the Council Members took a different view and which resulted in delaying a development which the Applicant contends clearly should have been permitted.
4. From the evidence before me, the effect of the proposed scheme on the character and appearance of the area was of great concern to a number of interested parties including the Town Council. Specifically, the concerns raised focused on the potential impact of the proposed scheme with regards to an intensive use of the appeal site, and its effect on the living conditions of nearby residents and the viability of local hotel and guest house businesses.
5. Accordingly matters concerning the effect of such appeal schemes on the character and appearance of the surrounding area, is a subjective judgement. As such The Council Members in this case were entitled not to accept the professional advice of Council Planning Officers, with reference to the nature and number of objections received from interested parties.

¹ Paragraph: 030 Reference ID: 16-030-20140306

6. Furthermore, whilst I have concluded that the appeal scheme would not have a harmful impact on the character and appearance of the surrounding area and would not harm the living conditions of nearby residents, the Applicant's response in relation to the Council's reason for refusal is straightforward, and does not appear to have involved extra assessment or, indeed, anything beyond a short rebuttal. Therefore, it seems to me that, in reality, there has been so little extra work involved in responding on this particular matter, that it can be regarded as 'de minimis'. In effect the Applicant has quickly and easily rebutted the Council's position without wasting expenditure.
7. In conclusion, I find that the Council has not acted unreasonably in the appeal process and the Applicant has not been put to unnecessary or wasted expense. Accordingly, an award of costs is not justified.

A Spencer-Peet

INSPECTOR