
Costs Decision

Site visit made on 3 February 2020

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

Costs application in relation to Appeal Ref: APP/Q1153/W/19/3240175 Town Living, Blenheim Lane, Exbourne EX20 3RX

- 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 P O'Connor for a partial award of costs against West Devon Borough Council.
 - The appeal was against the refusal of the Council to grant permission in principle for erection of up to 6 dwellings with on site parking, public open space provision and play area.
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Decision

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

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 applicant claims that the Council acted unreasonably during the course of determination of the application. This is on grounds which I summarise as: refusing permission following a change in case officer and recommendation without first engaging in consultation with him, or providing the opportunity for an extension of time, during which further discussion could have narrowed the grounds for refusal.
4. The Council acknowledges some failings in communication with the applicant during the course of determination, and indeed apologised for this shortly after. These failings appear to have arisen as a result of differences in opinion between officers over whether the scheme should be approved or refused, leading to a decision being which was at odds with that expected. This failure to communicate with the applicant in a proactive and positive way was unreasonable.
5. The assumption underlying the applicant's claim is however that had such communication taken place, the Council would have changed its view in relation to the emerging neighbourhood plan. This forms the principal theme of the Council's second reason for refusal. The Council indicates that this is not the case.
6. I have found in my main Decision that granting permission would not undermine the neighbourhood planning process, and so in this regard I agree with the applicant. Be that as it may however, I have no particular reason to

doubt that the Council would have maintained its view whether or not there had been an extension of time and further discussion prior to determination. Consequently, the reasons for refusal would not have been narrowed, and the costs involved in addressing them at appeal would not have been reduced.

7. As such, though I have found that the Council behaved unreasonably with regard to communication with the applicant, I am not persuaded that this failure caused the applicant to incur unnecessary or wasted expense in the appeal process.

Conclusion

8. For the reasons set out above I conclude that the applicant's claim for a partial award of costs should be dismissed.

Benjamin Webb

INSPECTOR