



Costs Decision

Site visit made on 13 May 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2020

Costs application in relation to Appeal Ref: APP/Y1138/W/20/3244550 Land at Silverdale, Silverton, Devon EX5 4GA

- 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 Northern Renovations for a full award of costs against Mid Devon District Council.
 - The appeal was against the refusal of planning permission for proposed residential development of up to 20 dwellings.
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Decision

1. The application for a partial award of costs is allowed in the terms set out below.

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 appellant indicates that the Council has prevented development which should have been permitted, having regard to its accordance with the relevant policies and other material considerations. It is also claimed that the decision was taken contrary to the professional advice of officers without reasonable planning grounds. Lastly, it is claimed that the reasons for refusal themselves are based on vague, generalised and inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis.
4. In respect of the effects of the proposal on the character and appearance of the area, the Members of the Committee will have been familiar with the site and its surroundings prior to the determination of the appeal application. It is clear from the evidence, including the meeting minutes, that the scheme was considered to result in unacceptable visual harm. The professional officer's view to the contrary was not one that the Committee was bound to accept, providing that a planning case can be made for the contrary view and particularly given that character and appearance effects are largely subjective.
5. The Council has submitted evidence to explain the view reached by the Committee in respect of the character and visual harm that would result from the scheme. That I have reached an alternative view does not indicate that the Council's decision was vague or unsubstantiated.
6. The Committee members will have also been aware of the nature of the highway network prior to the determination of the appeal application. The view

expressed was that the level of impact of the proposal would prejudice highway safety. Whilst this view differed from that of the professional view of the Highway Authority Officer, the Council provided an objective analysis of the highway conditions prepared by an independent specialist and the issues that would result or be exacerbated by the proposal. The Council's precautionary approach was understandable and its position has been adequately substantiated. Whilst I do not share the Council's concerns over highway safety, I see no sign of unreasonable behaviour with regard to this issue.

7. In reference to the cumulative effects, I share the appellant's view that it was unclear what cumulative effects would result from the proposal. The reason for refusal generally asserts that there would be harmful cumulative impacts. The information presented before the Committee referred to the total number of additional houses and the population increase. The qualification of this aspect of the refusal has centred on the highway safety effects of the proposal in combination with permitted schemes in the village.
8. While the appellant's evidence for this is not significant, it should have been clearer what evidence would be needed and thus, some unnecessary expense will have been incurred as part of the appeal process.
9. On this basis, I consider that the Council has behaved unreasonably in terms of the substance of the matter of cumulative impacts. For these reasons, it is concluded that a partial award of costs against the Council, on grounds of unreasonable behaviour resulting in wasted or unnecessary expense, as described in the PPG, is justified in the particular circumstances.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mid Devon District Council shall pay to Northern Renovations, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred specifically in relation to the preparation of evidence specifically in relation to cumulative impacts. These costs are to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Mid Devon District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Hollie Nicholls

INSPECTOR