



Costs Decision

Site visit made on 8 June 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2020

Costs application in relation to Appeal Ref: APP/K1128/W/19/3243018 Salcombe Retreat, Land to Soar Mill Cove Road, Malborough, TQ7 3DS.

- 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 Salcombe Park Ltd for a full award of costs against South Hams District Council.
 - The appeal was against the refusal of planning permission for 23 new caravan/lodge bases including associated parking and internal access road.
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Decision

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

Procedural Matter

2. I have treated the application as seeking a full award of costs based on the details and range of case made in the submissions.

Reasons

3. 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.
4. The applicant seeks an award of costs on the basis of the unnecessary and wasted expense involved in the appeal along with costs for the development which would have been implemented following permission and the loss to seasonal business following this.
5. In summary, the case is made that the application should not have needed to go to appeal because it was supported and recommended for approval by the planning officers and specialist consultees, the reasons for refusal do not stand up to scrutiny on the planning merits, the proposal accords with planning policy and the Committee has not produced any evidence to justify their decision. Furthermore, it is argued that the Council has unnecessarily prolonged the processing of the application which took nearly a year to determine yet no amendments were requested.
6. The Council has explained that it worked with the applicant to seek further information including on the external appearance of the lodges and the treatment plant and that extensions of time were agreed by the applicant for the processing of the application. It is argued that the Committee properly considered all material matters and were entirely within their rights to come to

a different view to the planning report and the Council's case has been substantiated by detailed evidence at the appeal.

7. The Planning Practice Guidance explains that costs that are unrelated to the appeal are ineligible and that awards cannot extend to compensation for indirect losses, such as those which may result from an alleged delay in obtaining planning permission. Accordingly, any consequential losses on the site in relation to the seasonal business are not matters that can be considered as part of the costs claim.
8. Furthermore, the Planning Practice Guidance also advises that costs cannot be claimed for the period during the determination of the planning application. While I note all the information from both main parties on this issue, the concerns raised regarding the application process and the time it took for the Council to reach a decision are not matters for my consideration as part of this costs claim in relation to the appeal.
9. The Committee were entitled to come to a different view to the officer report providing substantive and evidenced arguments could be made to justify the decision. The site is located within the South Devon Area of Outstanding Natural Beauty (AONB). The conservation and enhancement of the landscape and scenic beauty of the AONB is a matter which the National Planning Policy Framework requires to be attributed great weight.
10. It is a matter of judgement as to whether the proposal would conserve or enhance the landscape and scenic beauty of the AONB and the Council set out in its appeal statement clear and cogent arguments to defend the reason for refusal. It will be seen from my decision that I agree with the judgement of the Council on this issue. Accordingly, it has not acted unreasonably in this respect and the decision was well founded.
11. As a result, it follows for the above reasons that I cannot agree that the Council has acted unreasonably in this case and the appeal could not have been avoided. Accordingly, the applicant was not put to unnecessary or wasted expense.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs is not justified.

David Wyborn

INSPECTOR