



Costs Decision

Site visit made on 13 July 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2020

Costs application in relation to Appeal Ref: APP/Q1153/W/20/3248731 Land at SX 447 766, site to the east of Summer Green, Lamerton

- 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 West Devon Borough Council for a full award of costs against Mr M Bassett.
 - The appeal was against the refusal planning permission for the erection of 5 dwellings and access road.
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Decision

1. The application for 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 Council make the case that, in summary, the appellant had not undertaken pre-application discussions, contrary to the best practice set out in the National Planning Policy Framework, and if these discussions had taken place it may have resulted in the application not being submitted. The Council also believe if the appellant had taken into account the reasoned justification and findings in respect of the adverse landscape impact identified by the previous Inspector this appeal would have been unnecessary. As a consequence, the limited resources of the Council have been wasted defending the appeal.
4. The appellant has explained that pre-application discussions are not a formal or legal requirement. The case is made that the previous appeal was not dismissed on grounds of principle but because of the specifics of the proposal presented at that time. It is argued that the current proposal would be significantly different. As a consequence, the appellant considers that the previously identified harm has been addressed, the scheme is acceptable and the appeal was not unreasonable.
5. The Planning Practice Guidance advises that an example of what may constitute unreasonable behaviour is when the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period.

6. In this case, there was no requirement to enter into pre-application discussions and the appellant was professionally represented. The previous appeal decision provides important background, however, a main issue is not one of principle but whether the scheme would be acceptable in terms of the effect on the character and appearance of the area. The appellant made references to the previous appeal decision and the findings. The present scheme is materially different in the size of the site area, the number of units proposed, and accordingly elements such as a private drive rather than an adopted highway with street lighting could also be different.
7. The effect of the proposal on the character and appearance of the area is a matter of judgement. While I disagree, the case made by the appellant was adequate in seeking to demonstrate that the proposal was of different scale and likely impact that the scheme could have addressed the harm identified in the previous appeal decision.
8. As a result, it follows that I cannot agree that the appellant has acted unreasonably in this case and consequently the applicant was not put to unnecessary or wasted expense in the appeal process.

Conclusion

9. 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