



Costs Decision

Site visit made on 3 August 2020

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2020

Costs application in relation to Appeal Ref: APP/K1128/W/20/3253688 Post Barn, Ashprington Cross, Ashprington, Totnes, Devon TQ9 7EA

- 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 Dr P Johnston and Dr C Edwards for a full award of costs against South Hams District Council.
 - The appeal was against the refusal of planning permission for cladding of an existing gate and topping off of a stone wall.
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Decision

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

Reasons

2. The Planning Practice Guidance (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 process. The applicants consider that the Council acted unreasonably by clearly preventing development that should have been permitted in accordance with the advice of its Officers and the Highway Authority.
3. I have noted the recommendation of the Council's Officers and the minutes of the Committee meeting, provided as part of the appeal documents, where the planning application was considered by Members. However, Members are not required to accept the professional advice of Officers and consultees so long as a case can be made for the contrary view. The Council was also not obliged to approve part of the development proposed.
4. In this case, the Council's refusal reason is complete, precise, specific and relevant to the proposed development. It details the alleged harm and the local and national planning policies that Members considered the development conflicts with. The Council's appeal statement subsequently substantiates the refusal reason and the Council's concerns with the appeal proposal.
5. The appeal site has a relatively long planning history, and both the main parties and several interested parties refer to it to some extent, particularly with regard to the visibility splay shown on previously approved plans. However, it is clear to me that the Council made its decision based on the proposed development and its decision was not unreasonably influenced by other matters, including those raised by other parties, which were unrelated to the appeal proposal.

6. Although I have come to a different conclusion to the Council and have allowed the appeal, Members are not bound to accept the advice of their Officers and consultees, for the reasons that I have set out above. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The agreement of an extension of time between the main parties and that the planning application was referred to, and determined by, the Council's Development Management Committee do not lead me to a different conclusion.

Tobias Gethin

INSPECTOR