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## Costs Decision

Site visit made on 12 August 2020

**by Nick Davies BSc(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 September 2020**

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### **Costs application in relation to Appeal Ref: APP/K1128/W/20/3250847 Land Adjacent to Parsonage Farm, Parsonage Road, Newton Ferrers PL8 1AT**

- 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 Pearce Fine Homes for a full award of costs against South Hams District Council.
  - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period, on an application for approval to details required by a condition of a planning permission for 12 dwellings to include 6 affordable units for the over 55s.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (the 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 application is based on the Council's failure to determine the application within a reasonable timescale, thus delaying development that should clearly have been permitted. It is argued that this was particularly unreasonable, bearing in mind that the application was for approval of reserved matters, where the parameters for scale, design, layout and landscaping had been tightly set at outline stage.
4. The PPG indicates that local planning authorities are at risk of an award of costs, if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. The PPG makes it clear that costs cannot be claimed for the period during the determination of the planning application<sup>1</sup>. However, all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in my decision on whether or not costs should be awarded.

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<sup>1</sup> Paragraph: 033 Reference ID: 16-033-20140306

5. The evidence indicates that the planning application was validated by the Council on 14 October 2019, and the appeal against non-determination was submitted 6 months later, on 14 April 2020. However, during that 6-month period, the proposals were subject to negotiation with Council Officers, and revised proposals were submitted. I have not been provided with details of the revisions that were considered necessary, but it is not unreasonable for the Council to seek amendments to planning proposals to overcome concerns raised by consultees, or to improve the design quality of the development.
6. The latest set of revised plans were submitted sometime after a meeting with the Council Officer, which took place on 2 March 2020, only about six weeks before the date of the appeal submission. Therefore, although the applicant states that the planning application had been with the Council for 6 months without a decision, the most recent plans had been with them for a considerably shorter period.
7. The Council's statement indicated that negotiations were ongoing at the time the appeal was submitted, and may well have resulted in an acceptable proposal. The statement demonstrated an understanding that the principle of development had already been established by the outline permission. Furthermore, it referred to the indicative layout which was made an approved plan of the outline permission. The remaining matters of concern related to scale, landscaping, and technical matters relating to road construction and drainage. There is, therefore, no evidence before me to indicate that the Council misunderstood the terms of the outline permission, or that the amendments they sought were contrary to the parameters that had already been established.
8. I appreciate that the negotiations may have been frustrating for the applicants, but I have no evidence to demonstrate that the modifications sought by the Council were unreasonable. From the little evidence I have on this matter, it appears that the originally submitted landscaping scheme did not include planting of an appropriate scale or species. As landscaping was a matter that was specifically being considered under the application, it was plainly reasonable for the Council to pursue an improved proposal in this regard. As the appeal was made so soon after submission of the final amended scheme, the Council's failure to determine the application did not unduly delay the development.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Nick Davies*

INSPECTOR