

Costs Decision

Hearing Held on 8 December 2020

Site visit made on 9 December 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2021

Costs application in relation to Appeal A Ref: APP/Q1153/W/20/3257061 Ashbury Hotel and Golf Course, Southcott, Okehampton EX20 4NL

- 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 Mr Simon & Mrs Joan Essex for a full award of costs against West Devon Borough Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for 16 holiday lodges.
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Costs application in relation to Appeal B Ref: APP/Q1153/W/20/3256993 Ashbury Hotel and Golf Club, Southcott, Okehampton EX20 4NA

- 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 Mr Simon & Mrs Joan Essex for a full award of costs against West Devon Borough Council.
 - The hearing was in connection with an appeal against a grant of planning permission subject to conditions.
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Costs application in relation to Appeal C: APP/Q1153/W/20/3257031 Ashbury Hotel and Golf Club, Southcott, Okehampton EX20 4ND

- 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 Mr Simon & Mrs Joan Essex for a full award of costs against West Devon Borough Council.
 - The hearing was in connection with an appeal against a grant of planning permission subject to conditions.
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Decisions

1. The costs application in relation to Appeal A is refused.
2. The costs application in relation to Appeal B is refused.
3. The costs application in relation to Appeal C is refused.

Introduction

4. 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.

Appeal A submissions for Mr Simon and Mrs Joan Essex

5. In respect of Appeal A, the appellants claim in the written costs submission that the Council failed to properly interpret and understand its own development plan policies, thereby preventing/delaying the development which should have been permitted in accordance with the development plan. It is also claimed that the Council introduced a requirement for a 'need' to be demonstrated where no such requirement exists in policy.

Appeal A response by West Devon Borough Council

6. The Council's response details that the merits of the proposal were fully assessed against the current planning policies in the Plymouth and South West Devon Joint Local Plan (JLP). Essentially, it is contended that the reason for refusal stands and is supported by relevant policies and guidance. Therefore, the application was not unreasonably delayed or prevented.

Appeal A reasons

7. For reasons set out in the separate appeal decision, Appeal A is considered to conflict with the development plan and therefore, the Council has not prevented or delayed development which should have been permitted in accordance therewith.
8. The identified local need for a tourism proposal is a stated requirement of Policy DEV15 of the JLP. This substantiates the request raised by the Council on this matter and stated conflict with the same given the absence of such. Whilst I have some sympathy given that it does not appear from the limited evidence that the Policy was applied as rigorously in relation to earlier appeals (in particular, Appeal B considered entirely against the JLP), that is not a reason in itself to ignore the requirements of the Policy in relation to the current case.
9. Thus, the Council has not been unreasonable nor caused the appellant to incur unnecessary or wasted expense in respect of Appeal A.

Appeals B and C submissions for Mr Simon and Mrs Joan Essex

10. In respect of Appeals B and C, the appellants allege that the Council imposed conditions that were not necessary, relevant to planning or to the development permitted, or reasonable in other respects, thus contradicting the requirements of the National Planning Policy Framework and Planning Practice Guidance.

Appeals B and C response by West Devon Borough Council

11. The Council provided its response in writing. It is stated that the justification for the planning conditions was provided in relation to the relevant policies of the development plan. It is also stated that the existing permissions were granted specifically as diversifications of the existing tourism business, thus justifying their respective locations. The removal of the conditions is considered by the Council to result in new developments in the countryside, contrary to the development plan.

Appeals B and C reasons

12. The development plan sets out a spatial strategy with which I have found there to be a degree of conflict in respect of Appeal A. Whilst Appeals B and C had already been permitted by the Council, in accordance with the JLP and a

- predecessor plan (Appeal C), the evidence before me may have differed to that which was before the Council in connection with those respective applications. Whilst my findings in connection with Appeal A cannot retrospectively apply to Appeals B and C, the intent to minimise the identified harm from the unsustainable location is clarified by the objectives of the development plan, even if not coherently explained in the respective officer reports in respect of the same.
13. The inconsistencies between the wording of the conditions on Appeals B and C indicates that there is a need to allow the appeals and provide simpler, identical enforceable conditions that achieve the objectives of the development plan. I have heard evidence to the effect that the current conditions inhibit the business to such an extent that they make the planning permissions unviable. Whilst this was not apparent from the original applications and did not prevent the initial implementation of the permissions, it is apparent now that such an outcome is less than ideal and recent events would have exacerbated pressures to resolve the issues.
 14. I have still identified a tension between the relevant objectives to promote sustainable tourism and minimise the need to travel. The solution that I have proposed is to secure travel plans, as is a specific requirement of JLP Policy DEV15. Whilst it does not tie the lodges to the business as prescriptively, it places an emphasis on the need for travel plan/s to operate between the business and respective owners with coordinated business activities across the complex and lodges that promotes sustainable travel.
 15. In any case, the essence of the conditions were necessary insofar as they sought to restrict the use of the lodges to holiday occupancy only. It does not appear that the appeal was entirely avoidable as there was a lack of clarity about the manner in which the lodges would expand the existing tourism business, which is, to an extent, still the case.
 16. Nevertheless, JLP Policy DEV15 presents a solution that can help achieve the stated planning objectives in an appropriate manner that may also realise the flexibility desired by the appellants.
 17. Thus, the Council has not been unreasonable nor caused the appellant to incur unnecessary or wasted expense in respect of Appeals B or C.

Overall conclusions

18. For the reasons set out above, I find that it has not been demonstrated that the Council behaved unreasonably and all applications for full costs are refused.

Hollie Nicholls

INSPECTOR