
Costs Decision

Site visit made on 31 March 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2021

Costs application in relation to Appeal Ref: APP/K1128/W/20/3261020 Hayes Barton, Vicarage Road, Stoke Gabriel TQ9 6QP

- 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 & Mrs Moore for a full award of costs against South Hams District Council.
 - The appeal was against the refusal of planning permission for demolition of garage and construction of dwelling.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (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. Policy TTV1 of the Plymouth and South West Devon Joint Local Plan 2014-2032 (LP) is clear that development may be permitted in smaller villages, hamlets and the countryside where it accords with the principles in LP Policies SPT1 and SPT2. While providing for local needs is a feature of those policies and the development plan as a whole, there is no explicit requirement in those policies to impose occupancy restrictions on new housing, irrespective of whether the site should be considered previously developed land, or not.
4. I note that there have been other appeal decisions where the need for such restrictions has been supported, but it has been suggested by the Council during the appeal process that to be required, there must also be an explicit policy conflict that would be overcome by an occupancy restriction.
5. I understand that the Council's change of position in this case has been influenced by consideration of a legal opinion provided with the appellants' evidence at appeal stage. Prompt case review during the appeal process is to be welcomed. However, that legal opinion did not advise on detailed matters of policy interpretation but, in essence, pointed out that there was not a policy supporting the imposition of the planning obligations that the Council sought.
6. As such, the Council has been unable to substantiate its sole reason for refusal with reference to the wording of development plan policies. Planning obligations can only be imposed where, amongst other things, they are necessary to make the development acceptable in planning terms. In the

absence of a policy conflict, the obligation sought by the Council and on the lack of which the entire appeal and associated costs was predicated was not, therefore, justified.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Hams District Council shall pay to Mr & Mrs Moore, the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to South Hams District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Bale

INSPECTOR