
Costs Decision

Hearing (Virtual) Held on 8 June 2021

Site visit made on the 10 June 2021

by Mr S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2021

Costs application in relation to Appeal Ref: APP/X1118/W/20/3261217 Land off Shutscombe Hill, Brayford, Barnstaple, EX32 7PU

- 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 M Coster for a partial award of costs against North Devon District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for the erection of one agricultural worker dwelling and associated butchery building.
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Decision

1. The application for costs is refused.

The submissions for Mr & Mrs M Coster

2. This submission covers several issues. Firstly, there is the claim that the Council was inconsistent with its handling and determination of the planning application, highlighting pre-application advice and also other similar planning permissions granted.
3. The applicant also claims that there were unjustified delays in the consideration of the planning application which resulted in business disruption.
4. The applicant believes the application should have been approved, therefore not needing to go to appeal, but have claimed for costs against reasons for refusal 2 and 3.
5. These reasons, amongst others set out by the applicant, form the basis for the application for costs against the Council.

The response by North Devon District Council.

6. The Council have rebutted all the claims by the applicant, setting out a timetable of the planning application process, its advice towards an application for a temporary dwelling, and that the pre-application was not binding, for example.

Reasons

7. The reasons for refusal, to which this costs claim is based, are Nos 2 and 3, which relate to the issues of essential functional need and financial need for the applicant to live on site in a permanent dwelling. As can be seen from the Appeal Decision, I have found that these are justified reasons for refusal, with

- the Council case set out clearly and with sufficient detail, concluding against planning policy. I do not consider that this is a case where this proposal should clearly have been approved. Furthermore, the use of conditions would not have been sufficient to overcome the issues identified.
8. I recognise that there may have been an inconsistency of advice given through the course of the planning application process (and indeed with the preceding pre-application response), but ultimately the Council has refused the proposal. At the appeal, the Council reasons for refusal have set the basis for the main issues. Inconsistent advice would be regrettable, but it has not been demonstrated sufficiently how this has resulted in costs incurred at the appeal stage.
 9. There may have been cases of some other similar type of development elsewhere, but I have found the Council clear in its reasoning why this case should be refused, based on its merits. There is no substantive evidence to show a particular hostility or set intension to refuse the planning application, whatever evidence may have been submitted to the Council.
 10. The planning application did take some time to determine, but the Council have provided sound reasons for this. In any case, these delays would not have resulted in any additional costs to the applicant at the appeal stage.
 11. Overall, I am not convinced that the appeal could have been avoided, with the Council reasons for refusal not vague, generalised, nor unsupported by evidence.
 12. Considering all the above, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated. For the reasons set out above, any award of costs is not justified.

Mr S Rennie

INSPECTOR