



Costs Decision

Site visit made on 19 May 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2021

Costs application in relation to Appeal Ref: APP/P1133/W/21/3267480 Trago Mills, Road Past Trago Mills, Liverton TQ12 6JD

- 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 Trago Mills (South Devon) Ltd for a full award of costs against Teignbridge District Council.
 - The appeal was against the refusal of planning permission for the construction of a new secondary access.
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Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby directly caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant contends that the Council has failed to produce evidence to substantiate its reason for refusal on appeal and has made vague, generalised or inaccurate assertions about the proposal's impact which are unsupported by any objective analysis. Moreover, the actions of Cllr Adrian Patch in failing to disclose to the applicant and the planning case officer emails and 'the Dossier', the latter being circulated to the committee members before event, unfairly prejudiced the decision-making process.
4. The Council's reason for refusal is clear, concise and relies on relevant development plan policy. The minutes of the meeting shows a meaningful debate was had, based in part on the representations of interested parties. This is borne out by watching the recording of the meeting itself.
5. A lack of recorded personal injury collisions is not incontestably a guarantee of highway conditions. The local concerns which formed the basis of the Council's decision were sufficiently robust insofar as they referred to practical issues such as school parking at Staplehill Road and the age of the traffic flow data relied upon by the applicant. Indeed, these concerns were not dispelled until the applicant's evidence was fortified by the Addendum, which augments the traffic data, confirms the unrecorded incidents referenced in representations and by Council and delves into greater detail about issues concerning BPS.
6. In this sense, whilst I have ultimately agreed with the applicant, the Addendum offers a sense of legitimacy to the concerns raised at the application stage. Whilst members could have deferred their decision to seek out the further information contained within the Addendum, I cannot be sure that this would

necessarily have resolved the concerns in the Council's view and thus prevented the appeal.

7. The findings of the Council's Standards Sub-Committee do not require repeating¹. However, whilst the conduct in question would have clearly influenced the committee's decision and did disadvantage the applicant, to what extent this directly caused the decision to refuse planning permission is indeterminable on the evidence before me. This is because it is also clear that members were influenced by the concerns of interested parties before and during the meeting. Given these circumstances, it is not demonstrated that the concealment of the emails and the Dossier, intentional or otherwise, directly or decisively caused the appeal and the costs incurred in the appeal process.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been clearly demonstrated. An award of costs is not justified.

Matthew Jones

INSPECTOR

¹ Decision Notice dated 6 July 2021