



Costs Decision

Site visit made on 15 November 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2021

Costs application in relation to Appeal Ref: APP/Y1138/D/21/3280155 19 Lower Millhayes, Hemyock, EX15 3SL

- 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 Miss Marie Ingersoll for a full award of costs against Mid Devon District Council.
 - The appeal was against the refusal planning permission for retention of timber outbuilding to be used ancillary to the main house, retention of decking and proposed installation of water supply and drainage pipes underground.
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Decision

1. The application for costs is refused.

Reasons

2. 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. There are effectively two types of unreasonable behaviour; relating to either the substantive merits of the case, or alternatively relating to procedural issues.
3. The applicant effectively asserts that the Council has prevented development which should have been permitted and has failed to substantiate or justify the reasons for refusal.
4. In relation to the appeal, there was a recommendation in favour of approval of the scheme from the Council's professional officer to the Planning Committee. Despite the supportive recommendation, the Planning Committee's members collectively reached a different view on the merits of the proposal; opting to refuse planning permission for a single reason, effectively covering two separate issues; effects on neighbouring occupiers and character/appearance.
5. Democratically elected members are not obliged to accept the recommendations of their officers in respect of matters such as planning proposals. Whilst on balance, I have disagreed with the reason put forward, it is understandable in relation to the site's characteristics, the absence of a certificate of lawfulness and the numerous concerns from neighbouring occupiers. I do not consider any caselaw or precedent examples so similar as to suggest that the Council has been inconsistent. Furthermore, design and effects on character and appearance are largely subjective and the views expressed have been captured and sufficiently explained in the evidence.
6. Whilst I appreciate that the outcome of the application will have been a disappointment to the applicant given the officer's recommendation, the

Council were not unreasonable in coming to its decision. As such, the appeal, with its attendant costs, could not strictly have been avoided. The evidence produced in defence of the case is not vague, generalised or inaccurate.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated and a full or partial award of costs is not justified.

Hollie Nicholls

INSPECTOR