



Costs Decision

Site visit made on 5 January 2022

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2022

Costs application in relation to Appeal Ref: APP/P1133/W/21/3280127 Cross Park Farm, Heath Cross, Whitestone EX4 2HN

- 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 Darren Gorrett for a full award of costs against Teignbridge District Council.
 - The appeal was against the refusal of planning permission for the use of building as residential dwelling and associated office space.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance advises that costs may be awarded where a party has acted unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellants case for an award of costs is that the Council did not engage with them in the determination of the planning application and as such, failed to work proactively to look for solutions to enable the grant of planning permission. In addition, the appellant considers that the Council did not give sufficient consideration to the use of conditions to restrict the occupancy of the property, to overcome its concerns about the effect of the existing employment use at the site on the living conditions of future occupiers of the appeal property.
4. The Council point out that the appellant made no use of the Council's pre-application advice service, prior to making the planning application, where the Council's concerns could have been highlighted at an early stage. The Council say that they determined the application in a timely manner to avoid unnecessary costs and delay to the appellant and that the use of an occupancy condition would not have overcome their concerns in any event.
5. Paragraph 39 of the National Planning Policy Framework states that early engagement between parties has 'significant potential to improve the efficiency and effectiveness of the planning system' with paragraph 41 referring to the resolution of issues at pre-application stage assisting with the issuing of timely decisions.
6. Had the appellant engaged with the Council at pre-application stage, the Council would have been afforded an opportunity to set out their concerns and

the appellant would have been able to provide additional information at application stage to seek to address those concerns. I do not find that the Council acted unreasonably in seeking to determine the application on the information it had before it within a reasonable timescale.

7. I accept that the Council could have gone further in considering whether the use of an occupancy condition restricting occupation to persons engaged in the existing business on site, could have overcome their concerns relating to the impact on living conditions of future occupiers. Planning Practice Guidance states that conditions can be used to enable development to proceed where it would otherwise be necessary to refuse planning permission, by mitigating the adverse effects. However, given the Council's case and my findings in respect of the first main issue, a condition controlling the occupancy of the dwelling would not have enabled the development to proceed and as such, it would not have prevented the need for an appeal.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. For this reason and having regard to all matters raised, an award of costs is therefore not justified.

Alison Fish

INSPECTOR