



Costs Decision

Site visit made on 2 February 2022

by Roy Curnow MA BSc(Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 05th May 2022

Costs application A in relation to Appeal Ref: APP/K1128/C/21/3282927 Villa Sharpitor, Sharpitor, Salcombe, Devon TQ8 8LW

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Stephen Wootton for a full award of costs against South Hams District Council.
 - The appeal was against an enforcement notice alleging the erection of a dwelling.
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Decision

1. The application for an award of 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.
3. The Claimant has not said whether this is an application for a full award of costs, but, from the submissions, I have taken this to be the case.
4. The claim is based on the contention that the Council did not take JLP Policy TTV29 into account. Had it done so, the claimant argues, it would have found that the proposals accord with it and planning permission would have been granted. This would have negated the need for the appeal. He says the Council failed to substantiate the reasons for refusing planning permission and issuing the Notice. Lastly, He says that JLP Policy DEV1 does not refer to car parking dimensions, which the Council argued were insufficient.
5. They end by stating that the costs incurred were amplified by the confusing approach taken by the Council in requiring the demolition of the dwelling.
6. For its part, the Council says that it is for the decision-maker to the relevance of policies to be relied on, and the weight to be attached to them. It says that the policies that it relied on were those it thought relevant. These were set out in the Officer report into the planning application and were not challenged by the then Agent.
7. It goes on to say that if JLP Policy TTV29 had been referred to, the scheme would have fallen foul of its parts (2) and (4). In any event, this matter formed such a small part of the Appellants' case that they did not incur any costs in referring to it. It then says that, given the extensive works that have been undertaken to the cottage, the requirement to demolish was not unreasonable.

8. Its position is that it did not act unreasonably and, therefore, there were no unnecessary costs.
9. As I set out in my Decision on the appeals against the Notice, I was not given a copy of Policy TTV29 that included its supporting text. I merely received recitations of its content. Furthermore, and this is central to whether the policy is relevant, I was not provided with definitive evidence to show that the site lies in the countryside. This is fundamental to its use. My view was that, whilst it was some way removed from its centre, it was at the very edge of the town. Without a plan showing the town's boundary, I cannot be sure that Policy TTV29 is relevant.
10. In any event, if it had been held to be relevant by the Council, I do not find that this would have altered its decision. The development plan has to be read as a whole and it seems clear to me that the Council would have pursued its arguments, which were backed up with other policies from the plan. Whilst I disagreed with the Council's position, it was not an unreasonable one.
11. I find that the Council did justify its case, arguing the reasons in a clear and concise manner. Its reference to parking layout was simply that were two cars to park on the site, in the manner shown on submitted drawings, it would be very hard, to put it mildly, to access the dwelling. The Council's argument that this would be detrimental to the living conditions of the dwelling's occupants was well-reasoned. In this respect, I note the terms of that part of paragraph 6.7 of its supporting text that reads "In particular Policy DEV1 addresses the need for development to support good residential amenity, accessibility...". Cars parked across the doorways would not meet this need. Whilst I found that a single parking space would suffice, this did not amount to unreasonable behaviour. I find similarly in respect of the requirements of the notice. The allegation in the notice was correct, and therefore the Council's requirement that the dwelling be demolished due to the harm it caused was not unreasonable.
12. For the above reasons, the claims for costs fail.

Roy Curnow

Inspector