

Costs Decision

Site visit made on 10 May 2022

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2022

Costs application in relation to Appeal Ref: APP/X1118/W/21/3285601 3 Taw Vale, Barnstaple EX32 8NJ

- 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 Domingo Tjornelund of FDT & Sons Ltd for a full award of costs against North Devon District Council.
 - The appeal was against the refusal of planning permission for partial Change of Use of an existing 3 storey Listed building, current Use Class B1 (Offices), to C3 (Residential) to the First and Second Floors (retaining Use Class B1 to the Ground Floor), including necessary internal alterations to create a dwelling.
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Decision

1. The application is refused.

Reasons

1. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of an appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
2. The applicant considers that the Council acted unreasonably in regard to the planning merits of its position about safe refuge at the site and has shown undue bias in its conduct. The Council submitted a detailed flood risk report during the appeal which led to further costs to provide a rebuttal.
3. Many of the applicant's issues relate to the planning application, not behaviour during the appeal. Clearly, the Environment Agency's position did harden over time, which would have been a rational source of frustration for the applicant. However, concerns about the conduct and motivations of the Council, and the potential maladministration of the application, are best addressed not to me but the Council's complaints procedure and potentially the ombudsman.
4. The merits of the Council's case are foremost addressed by my appeal decision. What is clear from the evidence before me, is that the Council has been consistently concerned about safe refuge as an option. The officer report is sufficiently detailed in its assessment of this issue, with clear reasoning for the Council's decision. I have ultimately agreed with the Council's concerns.
5. The Council submitted a detailed report during the appeal, which logically led to costs for the applicant at the final comments stage. However, the majority of the content of the report seeks to expand or augment the Council's position as already established. As such, I do not find its submission to be unreasonable. The PPG states that parties in planning appeals normally meet their own expense, and I consider the applicant's costs to fall within that context here.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. An award of costs is not justified.

Matthew Jones

INSPECTOR