
Costs Decision

Site visit made on 26 May 2022

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 23 June 2022

Costs application in relation to Appeal Ref: APP/Q1153/W/21/3288612 West Raddon Farm, Lewdown, Okehampton EX20 4PS

- 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 Dr & Mrs S Chaplin for a partial award of costs against West Devon Borough Council.
 - The appeal was against the refusal of planning permission for the conversion of holiday barn to permanent residential use.
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Decision

1. The application for a partial award of costs is refused.

Preliminary Matters

2. Whilst the application for costs does not expressly state whether the Applicants are seeking a full or partial award of costs against the Council, on the basis of the information before me, it appears that the Applicants are seeking costs only in relation to the third reason for refusal given by the Council on its Decision Notice dated 15 October 2021. As such, I consider that the application seeks a partial award of costs and I have determined this matter on that basis.

Reasons

3. Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only 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. Parties in planning appeals and other planning proceedings normally meet their own expenses.
4. The Applicants have put to me that the Council has acted unreasonably by withdrawing the third reason for refusal given on its decision notice, during the appeal, and that that caused unnecessary expense in the appeal process. It is maintained that the Council had been provided with sufficient time during the assessment of the appeal scheme, to consider additional ecological information and which would not have resulted in the proposal being refused, in part, in respect of those matters.
5. The evidence before me indicates that during the assessment of the planning application and following initial consultation, the County Ecologist requested additional information and clarification from the Applicants with regards to the potential destruction of a bat roost. As noted in a further consultation with the County Ecologist, the submitted additional information was received, was considered and resulted in the conclusion that the concerns could be

appropriately satisfied through planning conditions. It therefore appears that, ultimately, the Council withdrew that reason for refusal following confirmation from the County Ecologist that the issue could be resolved by conditions.

6. It appears that the decision notice was issued prior to the Council receiving the final consultation from the County Ecologist. The County Ecologist's comments in that regard were dated 13 April 2022, with the Council confirming that they wished to withdraw the abovementioned reason for refusal, within their statement of case which is dated 18 April 2022. Having looked at the timescales, it seems to me that the Council therefore withdrew this reason for refusal in good time and at as early an opportunity as was reasonably possible given that further consultation with their advisor was needed.
7. Whilst there does appear to have been some delay in the County Ecologist providing the final consultation, given the above I am of the view that the Council have not been unreasonable in withdrawing the third reason for refusal during the appeal process. Furthermore, it is apparent that the additional information requested by the County Ecologist was necessary to determine the application and would have been required in any event, and therefore the situation has not resulted in any need for further assessment by the Applicants, or indeed anything beyond a short rebuttal on the Council's position in relation to this matter within the appeal submissions.
8. In conclusion of the above, I find that the unreasonable behaviour resulting in unnecessary or wasted expense, as described within the PPG, has not been demonstrated in this case and that, therefore, a partial award of costs is not justified.

A Spencer-Peet

INSPECTOR