



Costs Decision

Site visit made on 26 August 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 20 September 2022

Costs application in relation to Appeal Ref: APP/Y1138/W/22/3294847 Land adjacent to 22B Tiverton Road, Cullompton EX15 1JN

- 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 Mark Channing and Mr A Brunt for a partial award of costs against Mid Devon District Council.
 - The appeal was against a refusal of planning permission for demolition of existing storage building and erection of three new dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. In this instance, the applicant alleges that the delay in the Council engaging with the application and subsequently issuing a decision was unreasonable. However, delays in the determination of an application are not sufficient to amount to unreasonable behaviour for the purpose of a costs award, as this factor would not have negated the need for the appeal. Put another way, there is no reason to suggest the Council's decision would have been different, had the application been determined sooner. The costs of the appeal would therefore not have been avoided.
4. The applicant further alleges that the Council deliberately searched for reasons for refusal, following pressure from local councillors. These allegations are not supported by evidence. Nonetheless, the Council's officer report was comprehensive, and provided detailed commentary on how and why the proposal was considered to contravene development plan policy. Moreover, I agreed with the Council's conclusions on a number of the reasons for refusal, attesting to their validity.
5. I acknowledge that I have found in favour of the applicant with regard to loss of employment space. However, my conclusion on this issue does acknowledge a conflict with Policy DM19 of the Council's Local Plan¹, which specifies particular marketing requirements for employment land which were not followed. The Council's conclusion on this issue was therefore not unwarranted.

¹ Mid Devon Local Plan 2013 - 2033

6. In terms of character and appearance, whilst I reached a different conclusion to the Council on this point, its assessment of the scheme with regards to this issue was clearly set out in its report, and its conclusion was neither unjustified nor unreasonable.
7. On account of these factors, the outcome of the appeal application would have remained the same, irrespective of the Council's handling of the application. In turn, the costs of the appeal would not have been avoided. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in this instance.

James Blackwell

INSPECTOR