



Costs Decision

Site visit made on 16 August 2022

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 October 2022

Costs application in relation to Appeal Ref: APP/K1128/W/22/3298629 Summerleaze, Drake Road, Salcombe TQ8 8EG

- 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 Ms Lucinda Davies for a full award of costs against South Hams District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a roof extension and alterations to front, side and rear.
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Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant has made an application for a full award of costs in relation to the Council exhibiting unreasonable behaviour, with particular regard to delay in determination of the application in a reasonable timescale; vague, generalised or inaccurate assertions about the proposals impact; refusing planning permission on a planning ground capable of being dealt with via condition; and, not determining similar cases in a consistent manner.
4. Costs can only be awarded in relation to unnecessary or wasted expense at the appeal, although I acknowledge behaviour and actions at the time of the planning application can be taken into account. I have been made aware that communication had taken place between the Council and applicant in relation to both a 'call-in' to Committee, and the potential for an independent review of the applicant's daylight and sunlight impact assessment (DIA) to be carried out. Whilst it appears that there was some delay due to, the Council states, difficulties sourcing a contractor, given the independent assessment was requested by the applicant, I do not find a delay in the application process due to seeking an independent assessment to be unreasonable. Furthermore, I find no substantive evidence that the applicant incurred any additional expense as a result of this delay.

5. The applicant raises a number of concerns in relation to a debate at the Council's Planning Committee and potential vague, generalised or inaccurate assertions. It may be that the Officer's verbal presentation included some error however Members did have access to the Committee report and DIA, and the Council has provided suggested reasons for refusal based on the information before it. Notwithstanding this, I note that the Committee was held following the submission of this appeal against the non-determination of the application. Therefore, the Council had not issued a formal decision. Members are entitled to arrive at a different decision to Officers, and I find that the basis of the Council's suggested reason for refusal had been adequately substantiated by the Council, which has not led to any unnecessary expense in the appeal process.
6. It may also be the case that the Council have not requested a DIA in similar proposals elsewhere. However, it is clear from the planning history of the site and the appeal proposal that in this instance, the Council were justified in seeking such information to be able to consider the planning merits of the proposal. This does not result in unreasonable behaviour.
7. Taking all the above points into account I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S Harrington

INSPECTOR