
Costs Decision

Site visit made on 6 December 2022

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2023

Costs application in relation to Appeal Ref: APP/N1160/W/22/3296614 Pasley View (land adjacent to Pasley Street Lane), Plymouth PL2 1DT

- 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 David Atrill of McCaren Design Ltd for a full award of costs against Plymouth City Council.
 - The appeal was against the refusal of outline planning permission for the erection of 9 houses with details of access, layout and scale (details of appearance and landscaping reserved for future consideration).
-

Decision

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

Reasons

2. Irrespective of the outcome of an appeal, the Planning Practice Guidance (the PPG) advises that costs may be awarded where a party has acted unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The applicant's case for an award of costs relies to a substantial extent on the pre-application advice given by the Council and relates to the professional costs incurred in the making of the application to the Council in light of the advice received.
4. Informal or pre-application advice given before a planning application is made, is given without prejudice and cannot pre-determine the outcome of a subsequent application, which must take account of all relevant factors. In this case, those factors included a response from the Natural Infrastructure Team (NI Team) who raised a policy objection to the scheme.
5. I have been provided with copies of the pre-application advice provided to the applicant by the Council dating back to 2013. It is clear that the Council continually expressed concerns about the proposed development of the site. The applicant chose to make a planning application without any degree of certainty over the outcome.
6. However, it is also clear that a conflict with Policy DEV27 was not raised until the applicant had made a formal application for planning permission to the Council. In my view the Council provided the applicant with an incomplete picture of the prevailing policy during the pre-application process by failing to highlight a policy objection which later formed one of the reasons for refusal.

7. The PPG advises that an award of costs can be made where a party behaves unreasonably in relation to procedural matters at appeal or with respect to the substance of the matter under appeal.
8. The applicant was given an opportunity to address the identified policy conflict, prior to the formal determination of the planning application. The reasons for refusal are substantiated by the Council in its submissions and in dismissing the appeal, I have found that the Council had reasonable concerns about the impact of the proposal which justified its decision and that the Council's case for refusal was well-founded.

Conclusion

9. Whilst it is unfortunate that the policy conflict which lead to the refusal of the planning application was not highlighted to the applicant at the pre-application stage, I find that unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs is not justified.

Alison Fish

INSPECTOR