
Costs Decision

Site visit made on 7 February 2023

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

an Inspector appointed by the Secretary of State

Decision date: 03 March 2023

**Costs application in relation to Appeal Ref: APP/Y1138/W/3297692
Land Behind 22B Tiverton Road (Former Scout Headquarters), Cullompton,
Devon EX15 1HT**

- 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 Mrs Felicity Hart (the Applicant) for a full award of costs against Mid Devon District Council (the Council).
 - The appeal was against the refusal of planning permission for the demolition of existing building and the construction of 1 new dwelling.
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Decision

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

Procedural Matters

2. The application for costs does not expressly state whether the Applicant is seeking a full or partial award of costs against the Council. However, from the information and submissions before me, it appears that the Applicant is seeking a full award of costs and I have determined this Costs Decision 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.
4. The PPG states that awards against local planning authorities may be either procedural, in respect of behaviour in relation to the appeal process, or substantive, which relates to the planning merits of the appeal. In this instance, the Applicant is seeking an award of costs in relation to procedural matters concerning delays in providing information.
5. In essence, the Applicant maintains that the Council deliberately introduced their reason for refusal against the proposed development on the day before it issued the decision notice, and thereby prevented opportunity to discuss how the Council's objection to the scheme could be overcome.
6. Based on the evidence before me, whilst there were some delays, it does appear that there was discussion between the Council and the Applicant following the submission of the planning application. There is no evidence before me which supports the allegation that the Council deliberately withheld

policy requirements requiring that such sites were marketed for a period of eighteen months.

7. It is noted that the Council did communicate with the Applicant the day before issuing the Decision Notice and confirmed that the proposal would not be supported due to conflict with Policy DM19 of the Mid Devon Local Plan (the Local Plan). It does not appear from the evidence before me that such matters had been substantially raised earlier during the Council's consideration of the planning application. Whilst confirmation of the reason the Council would have given for refusing the scheme was given at a late stage, there is nothing to suggest that the Council would have come to a different decision had it determined the application any sooner. Furthermore, it is not possible to ascertain whether further discussion could have led to a positive outcome given the Council's position and the cited conflict with the development plan policy.
8. It will be seen from the appeal decision that, whilst I have found there would be some very limited conflict with a specific provision of Policy DM19 of the Local Plan, overall, I have found in favour of the Applicant and have allowed the appeal. As such, whilst I have come to a different conclusion to that of the Council, the Council's decision to refuse the planning application on the grounds of conflict with the cited policy was not unreasonable.
9. For the reasons given, I find that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and that, therefore, an award of costs is not justified.

A Spencer-Peet

INSPECTOR