
Costs Decision

Site visit made on 17 January 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd March 2023.

Costs application in relation to Appeal Ref: APP/K1128/W/22/3302074 Land North East of Hartlands, Lodge Lane, Brixton PL8 2AU

- 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 Joanne Burgess for a partial award of costs against South Hams District Council.
 - The appeal was against the refusal of the Council to grant planning permission for a new dwelling.
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Decision

1. The application for a partial 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. Costs in this instance are being applied for on substantive grounds.
3. The applicant considers that the Council acted unreasonably by refusing planning permission for the first reason stated in the notice of decision. They consider the unreasonable behaviour to be on the basis that the proposal adjoins a development that the Council found acceptable in this regard. The applicant states that the circumstances of the two cases are similar with no material change in planning policy.
4. In response, the Council states that the two applications were three years apart and are substantially different with the adjoining proposal considered at a time when the Council did not have an adopted Local Plan or five-year supply of housing land, with more weight now attributed to policies that are formally adopted. As a result, there has been a material change in planning policy since their consideration of the adjoining development.
5. Since the Council considered the development on the adjoining site in 2019, the Plymouth and South West Devon Joint Local Plan 2014-2034 has been adopted along with the Brixton Parish Neighbourhood Plan 2014-2034 being 'made'. As a result of this and given that the Council can now demonstrate a five-year supply of housing land, there has been a change in planning policy and material considerations that, I have concluded, justify the Council's decision. In addition, I have found in favour of the Council with regard to the assessment of the site's accessibility to services and facilities.

6. Matters concerning an assessment of the proposal against relevant development plan policies and detailing the change of approach compared to the planning permission granted on the adjoining site were detailed in the Council's officer report and statement of case.
7. In light of the above, I consider that the circumstances of the two developments differ. I also find that a material change in planning policy has occurred between consideration of the proposals that justifies a different approach regarding the location of the development in relation to services and facilities.
8. Accordingly, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
9. The application for a partial award of costs must fail.

C Rose

INSPECTOR