



Costs Decision

Hearing Held on 23 May 2023

Site visit made on 23 May 2023

by Hollie Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 June 2023

Costs application in relation to Appeal Ref: APP/F9498/W/22/3290387 Little Acres, Brendon Hill, Watchet TA23 0LG

- 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 Steven Marsh for a partial award of costs against Exmoor National Park Authority.
 - The hearing was in connection with an appeal against the refusal of planning permission for proposed establishment of rare breed poultry farm and horticultural business involving temporary siting of caravan and erection of 2 no. polytunnels and 3 no. buildings (including chicken brooder house, vegetable handling facility, and storage and workshop barn), together with installation of solar panels and construction of 2 no. dew ponds.
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Decision

1. The application for 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. The PPG goes on to state that parties in planning appeals normally meet their own expenses and all parties are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. However, where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. Costs awards can be granted when unreasonable behaviour occurs either in relation to the procedural aspects of the appeal, or where substantive issues arise in relation to the merits of the appeal. The PPG also makes clear that costs cannot extend to compensation for indirect losses, such as those which may result from alleged delay in obtaining planning permission.
4. The Appellant seeks to reclaim the fee paid for submission of the initial planning application based on his perception of the unprofessional way in which it has been handled. Secondly, the Appellant seeks to claim costs for time spent preparing various documents requested to justify the proposal which it is claimed were never assessed by the Authority. Lastly, the Appellant seeks to claim for lost of income due to the delays in obtaining planning permission.

5. The Authority's response indicates that officers handling the application believed they acted in a professional manner and sought to secure the necessary information to determine the application, all of which was ultimately taken into consideration. The claim that personal documents were shared inappropriately is refuted by the Authority. The Authority conclude that the refusal of the application should not be considered unreasonable behaviour, particularly as at that time, some aspects of the proposal had already been placed in situ and related activities had commenced.
6. In respect of the refund of the planning application fee, I do not consider that there is evidence of the Authority having deliberately acted in an unprofessional manner and it has since been used again for the resubmission of an application in the intervening period. It appears to me that documents submitted by the Appellant on request by the Authority have been taken into consideration, contrary to the Appellant's belief.
7. As set out in the PPG, parties are normally required to meet their own expenses in relation to the submission of the appeal and costs cannot extend to compensation for indirect losses from any alleged delay in obtaining planning permission. The main costs applied for appear to be of an indirect nature, and thus, cannot be reclaimed through the appeal costs process. As my appeal decision finds in favour of the Council, there has been no delay in obtaining permission that can be specifically attributed to the Council's mishandling of the matter in any event.
8. I am mindful that the Appellant was open to discussion and willing to provide any necessary additional information requested. Indeed, one such opportunity was taken to submit further requested information, i.e., the *Little Acres Business Plan*. Such an example leads me to believe that the Council has not acted unreasonably by refusing to engage with the Appellant.
9. It is regrettable that there was a lack of clarity on what level of business and finance information was able to be made publicly available. I consider that efforts should be made to avoid a similar situation occurring again in the future. However, I still do not find evidence of deliberately unreasonable behaviour that can have resulted in wasted expense based on this particular issue. Additionally, the allegations of personal information being mishandled by the Authority and correspondence being incorrectly given to other family members are not matters for this costs application.
10. In conclusion, I do not find that the Council has behaved unreasonably, either substantively or procedurally in relation to the appeal application or the appeal itself. Wasted expense, as described in the PPG, has not been demonstrated and an award of costs is therefore not justified.

Hollie Nicholls

INSPECTOR