



Costs Decision

Site visit made on 18 April 2023

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2023

Costs application in relation to Appeal Ref: APP/Y1138/W/22/3310067 Land at the rear of 2 Angel Hill, Tiverton EX16 6PE

- 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 3 Rivers Developments Limited (Mr Nick Sanderson) for a full award of costs against Mid Devon 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 planning permission for the provision of residential parking and landscaping works.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. In this instance, the application was first considered by the Council's Planning Committee in a timely manner on 27 July 2022. In line with the Council's constitution, officers then produced an Implications Report to consider the concerns raised by Members. However, at the second meeting of the Planning Committee, on 7 September 2022, Members passed a motion to resolve that the application would not be determined. A further motion confirmed that Members would take no further part in any subsequent appeal.
4. I note that the Council has indicated that 3 Rivers Development Limited is owned by the Council and that the wider development scheme has been publicly controversial. However, while Members may have found the process difficult, I can see no reason why the application could not have been determined at the Committee meeting on 7 September, or why the Council has not been able to submit a full statement of case for the appeal. I am not able to come to any other conclusion other than that the Council failed to undertake its responsibilities to determine the application and defend its case fully at appeal.
5. The Committee's refusal to determine the application gave the appellant no option but to proceed down the appeal route, in order to obtain a formal decision on the application. The appellant therefore incurred unnecessary expense in preparing evidence for the appeal. The Council has therefore demonstrated unreasonable behaviour resulting in unnecessary or wasted expense, and a full award of costs is therefore warranted.

Costs Order

6. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mid Devon District Council shall pay to 3 Rivers Developments Limited, the costs of the appeal proceedings described in the heading of this decision; such costs are to be assessed in the Senior Courts Case Office if not agreed.

The applicant is now invited to submit to Mid Devon District Council to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C Butcher

INSPECTOR