



Costs Decision

Site visit made on 29 August 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2023

Costs application in relation to Appeal Ref: APP/U1105/W/23/3314033 Land adjacent to Hamlet House, Nags Head Road, Honiton, Devon EX14 3PB

- 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 G Braddick for a full award of costs against East Devon District Council.
 - The appeal was against the refusal of planning permission for extension of an existing commercial building on the land north of Hamlet House.
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Decision

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

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. Paragraph 49 of the PPG says that *Local planning authorities are required to behave reasonably in relation to procedural matters at the appeal, for example by complying with the requirements and deadlines of the process. Examples of unreasonable behaviour which may result in an award of costs include: preventing or delaying development which should clearly be permitted; and introducing fresh and substantial evidence at a late stage necessitating extra expense for preparatory work that would not otherwise have arisen.*
4. The applicant states that the costs application is submitted on the grounds that the Council behaved unreasonably by delaying development that was in accordance with the development plan. It is also claimed that the Council backtracked its position in respect of the current use of the site. They add that unnecessary and wasted expense was incurred through the preparation and submission of the appeal and the impacts on the applicant's business in delaying the consent.
5. Given that I have agreed with the Council that the development would not accord with the development plan, I am satisfied that they did not delay a scheme that should have clearly been permitted. As such, the Council did not behave unreasonably. Consequently, no wasted or unnecessary expense has been incurred in respect of the impacts on the applicant's business.
6. The email from the Council's officer to the applicant's agent on the 28th of September 2022 explains that they were *satisfied as to the nature of the **present use** of the building for storage purposes*. This was further rehearsed

in the officer report where the site was described as being **currently** in use for *equipment storage purposes*. Furthermore, later in the officer report, it was noted that *whilst it is possible that the storage use of the building **may** be its lawful use, there has been no grant of any lawful development certificate to establish this position in law*. Therefore, the Council confirmed the site's current use rather than its lawful use. The above matters were then raised by the Council in its appeal statement. Additionally, as set out in the main decision, lawfulness can only be formally determined by a lawful certificate application. Although not stated as a reason for refusal, I do not find that fresh evidence has been introduced at a late stage or that the Council has behaved unreasonably in this respect.

7. I therefore do not find that the Council has shown unreasonable behaviour resulting in unnecessary or wasted expense and a full award of costs is not, therefore, warranted.

J Hills

INSPECTOR