

Costs Decision

Hearing Held on 13 September 2023

Site visit made on 13 September 2023

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th September 2023

Costs application in relation to Appeal Ref: APP/P1133/W/23/3319543 Land at Ngr 280016 72763, Bickington, Devon TQ12 6JU

- 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 J Penfold for a full award of costs against Teignbridge District Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for change of use of land to a Gypsy site.
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Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of an appeal, costs may 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.
3. The application for costs was made in writing about a week before the hearing. In the interest of natural justice, both the main parties were given the opportunity to offer final oral submissions during the hearing.
4. The applicant contends that the Council took too long to determine the planning application and did then not review its case promptly following the lodging of the appeal, as part of sensible on-going case management. If the Council had properly engaged with the 2022 GTAA data and the permutations of the Lisa Smith judgment, the appeal could have been avoided.
5. It is clear to me that the determination of the planning application took a significant amount of time, and I can understand why the applicant found this highly frustrating. Even so, the planning application was eventually refused, and it is unclear how the delay up until that point constitutes unreasonable behaviour that has led to unnecessary costs during the appeal process itself.
6. The Council's rationale for giving limited or 'some' weight to the 2022 GTAA lacked robustness, and that point was made by the applicant numerous times during the appeal in correspondence, including with relevant appeal decisions. Given such, I agree with the applicant that the Council failed to promptly or review its case as part of sensible ongoing management.
7. That said, the issue of need and supply is intertwined in this case with the effect of the proposal on the settings of the relevant listed buildings. The

Council has adequately substantiated its case regarding heritage, in its appeal statement and officer report. The Council also confirmed at the hearing that its judgment as to the balance of harm and public benefits would be unchanged even if the applicant's approach to the issue of need and supply were adopted. This is a matter of planning judgment. On this basis, it is not demonstrated that the appeal could have been avoided had the Council adopted the applicant's position on the issue of need and supply.

8. Consequently, on the evidence before me, the Council's conduct does not constitute unreasonable behaviour that has in turn demonstrably resulted in unnecessary or wasted expense in the appeal process, as described in the PPG. An award of costs is therefore not justified.

Matthew Jones

INSPECTOR