



Costs Decision

Site visit made on 22 November 2023

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 January 2024

Costs application in relation to Appeal Ref: APP/U1105/W/22/3305821 3 Trefusis Place, Exmouth EX8 2AR

- 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 and Mrs Charles Isaac for an award of costs against East 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 development described as 'Loft conversion to a habitable use, changes to external elevation finishes with alteration to fenestration, replacement of existing conservatory with a garden room and alterations to Garden Annex with front extension and relocation of front door'.
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Decision

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

Preliminary Matters

2. The application for costs does not expressly state whether the applicant is seeking a full or partial award of costs against the Council. On the basis of the information before me, it appears that the applicant is seeking costs on the basis that the Council did not determine the application within a reasonable time period and that by not doing so, it unreasonably withheld planning permission for the development. As such, I consider that the application seeks a full award of costs and I have determined this application accordingly.

Reasons

3. 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.
4. In cases where a Council fail to determine an application within the relevant period, the applicant has the right to submit an appeal. In this case, the applicant exercised their right of appeal and this was the appropriate remedy.
5. The PPG also makes it clear that a local planning authority is at risk of an award of costs if it prevents or delays development which should clearly have been permitted having regard to its accordance with the development plan, national policy and any other material planning considerations.
6. It is certainly unhelpful that the Council failed to engage with the applicant and chose not to submit with the appeal either a statement of case or reasons for refusal had they been in a position to determine the application. However, it is

clear from the Conservation consultation response that the Council had concerns about the addition to the roof and the use of inappropriate materials.

7. Notwithstanding the further information supplied by the applicant to the Council in March 2022 which sought to address those concerns, nor the content of the heritage consultant's submission¹ with the appeal documentation, I have found that the proposal would be harmful to the significance of the Conservation Area and that the appeal should be dismissed. Accordingly, an appeal could not have been avoided and it therefore follows that the applicant has not been put to unnecessary or wasted expense.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

Alison Fish

INSPECTOR

¹ By Armour Heritage Limited dated 15 August 2022