



Costs Decision

Site visit made on 16 January 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Costs application in relation to Appeal Ref: APP/U1105/W/23/3326441 Stables and sand school adj Willowmead, Toby Lane, Woodbury Salterton EX5 1QB

- 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 and Mrs Browne for a full award of costs against East Devon District Council.
 - The appeal was against the refusal of the Council to grant planning permission for change of use from stable to self-build dwelling including associated works and parking.
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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. Unreasonable behaviour in the context of an application for an award of costs may be either procedural – relating to the process; or substantive – relating to the issues arising from the merits of the appeal.
3. Paragraph 47 of the PPG sets out examples of unreasonable behaviour in respect of procedural matters at the appeal. These include but are not limited to a lack of co-operation with the other party or a delay in providing information or other failure to adhere to deadlines. Examples of substantive unreasonable behaviour are set out in Paragraph 49 of the PPG. These include persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
4. Procedurally, the applicant states that the costs application is submitted on the grounds that the Council behaved unreasonably by alluding to supporting the planning application subject to the receipt of amended plans and landscaping enhancements. They claim that this added extra expense for preparatory work that would otherwise not have arisen. Additionally, the applicant is concerned that the Council failed to meet its statutory deadline for determining the application, noting the fee was returned. Furthermore, in respect of the substance of the matter at appeal, the applicant says that the Council has persisted in objecting to a similar scheme under the same policy provisions that was allowed at appeal.
5. Whilst the applicant received positive comments from the planning officer, it was made clear that the report would be reviewed by the service lead ahead of any determination. Furthermore, had the requested additional details not been

provided, then it is likely the Council would have had other concerns relating to the scheme at the appeal. Although there were delays in the determination of the application, it is evident that the Council attempted to resolve some matters by inviting further revisions. In any case, an application for costs should relate to the appeal process.

6. In terms of matters relating to the substance of the appeal, the Council set out in its submissions the conflict they found with national and local policies. I have agreed with the Council and found that the Greenhayes appeal ref: APP/U1105/W/22/3294599 is materially different.
7. For the above reasons, I 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