

## Costs Decision

Site visit made on 30 January 2024

**by Alison Fish BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 February 2024**

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### **Costs application in relation to Appeal Ref: APP/N1160/W/23/3317135 86 Milehouse Road, Plymouth PL3 4DA**

- 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 T Mellor for a full award of costs against Plymouth City Council.
  - The appeal was against the refusal of planning permission described as 'Construct detached dwelling with parking space (EV charger)'.
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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. The applicant's case for a full award of costs is that the Council refused planning permission on a ground capable of being dealt with by conditions; persisted in its objection to a scheme or elements of a scheme which an Inspector had previously indicated to be acceptable; and unreasonably withheld planning permission for development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The Planning Committee refused the application contrary to officer advice. Whilst they are not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
5. The Council refer to the appeal site being within a Critical Drainage Area where applications should be supported by a site-specific flood risk assessment<sup>1</sup>. The information provided by the applicant was very limited and did not include those aspects referred to in the PPG. The Council could not be certain from the information provided that the proposal would not increase the risk of flooding in the local area. As such, the Council were entitled to conclude that the matter was not capable of being dealt with by conditions.

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<sup>1</sup> Paragraph 173 and footnote 59 of the National Planning Policy Framework

6. In making the case that the Council persisted in its objection to a scheme or elements of a scheme that an Inspector has previously indicated to be acceptable, the applicant is relying on an appeal decision dating back to 2009. This is now some age, refers to policies which are now out of date and it pre-dates the National Planning Policy Framework. I have concluded that for these reasons it carries very limited weight. The apportionment of weight is a matter for the decision maker and as such, I consider the Council has not behaved unreasonably in also giving this limited weight.
7. Whilst I have not concluded in favour of the Council with regards to separation distances and parking standards, I have found that the Council applied the advice in the adopted Supplementary Planning Document and had reasonable concerns about the impact of the proposed development on the living conditions of existing occupiers and highway safety, which justified its decision.
8. The proposal would therefore be contrary to the development plan and I have dismissed the appeal. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme. Therefore, the appeal could not have been avoided.
9. I 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