



Costs Decision

Site visit made on 21 November 2023

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2024

Costs application in relation to Appeal Ref: APP/U1105/W/23/3323724 Exmouth Beach, Queens Drive, Exmouth, Devon EX8 2GD

- 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 Queen's Drive CIC for a full award of costs against East Devon District Council.
 - The appeal was against the refusal of planning permission for the construction of a single storey flexible office/community Hub building and extension to the existing bin store to provide new WC facilities ancillary to the existing Sideshore development.
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Decision

1. The application for a full 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 appellant's case is that the Council have failed to provide substantive evidence to support the reason for refusal, the Planning Committee when determining the application were influenced by non-policy based grounds and the Council has prevented or delayed development that should have been permitted when having regard to its compliance with the development plan. The Council appear to have not submitted a rebuttal to the costs application.
4. Although the appellant contends that Members' concerns that the proposal would cause harm to the character and appearance of the area were unfounded, I consider that the effect on character and appearance is somewhat subjective and although I have found the effect of the proposed development acceptable, it was not unreasonable for Members to come to a different conclusion. As Members concluded that the proposal would cause harm to the character and appearance of the area, it naturally follows that the proposal was deemed to not be compliant with the adopted development plan. This is essentially a difference of opinion between the parties, and I do not consider that the Council have behaved unreasonably by unnecessarily preventing or delaying the proposed development.
5. Following the refusal of the application by the Council, they have submitted an appeal statement that supports and builds on the case for refusal and includes an explanation on the reason why they consider that the proposal is not policy compliant. Whilst I do not agree with the conclusion reached in that statement, I consider that the Council has provided substantive evidence to support the reason for refusal and they have not behaved unreasonably in this respect.

6. The assertion that Members were unduly influenced by non-policy matters when determining the application is not supported by evidence to sufficiently demonstrate that that was the case. The Committee meetings do not fully minute the discussion that took place and I have not been provided with a transcript of the meeting. I therefore have little information before me to reach the conclusion that there was unreasonable behaviour on this ground either.
7. Having regard to all of the above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Reeves

INSPECTOR