



Costs Decision

Site visit made on 24 January 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2024.

Costs application in relation to Appeal Ref: APP/P1133/D/23/3321444 5 Fore Street, Shaldon TQ14 0DZ

- 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 Clinton Pugh for a full award of costs against Teignbridge District Council.
 - The appeal was against the refusal of planning permission for conversion of potting shed to habitable rooms with a first floor extension over.
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Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (PPG) confirms that an award of costs is an order which states that one party shall pay to another party the costs, which may be in full or in part, incurred by the receiving party during the process by which the Inspector's decision is reached. The costs which can be claimed relate only to those costs incurred during the appeal process.
3. The PPG goes on to advise that, irrespective of the outcome of the appeal, all parties are expected to behave reasonably to support the appeal process and costs may only be awarded against a party who has behaved unreasonably and, that the unreasonable behaviour has directly caused the party applying for costs to incur unnecessary and wasted expense in the appeal process.
4. Costs cannot be claimed for the period prior to, or during, the determination of the planning application. However, behaviour and actions at the time of the planning application can be taken into account in consideration of whether costs should be awarded.
5. Paragraph 047 of the PPG¹ indicates that local planning authorities are required to behave reasonably in relation to procedural matters at the appeal and will be at risk of a procedural award being made against them for reasons including a lack of co-operation with the other party.
6. Paragraph 049 of the PPG² indicates that local planning authorities will be at risk of a substantive award being made against them for, amongst other things, preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, refusing planning permission on a planning ground capable of being dealt with by conditions, and refusing to enter into

¹ Reference ID: 16-047-20140306

² Reference ID: 16-049-20140306

pre-application discussions, or to provide reasonably requested information, when a more helpful approach would probably have resulted in either the appeal being avoided altogether, or the issues being narrowed, thus reducing the expense associated with the appeal.

7. The applicant's claim is primarily based on the length of time the Council took to determine the application, i.e., 1 year and 9 months, particularly in the context of the scheme being for a householder proposal. Issues are also raised in relation to the failure to give sufficient weight to the heritage benefits of the scheme and the overall conclusion which appears to protect the outlook from a window which remains in an unauthorised state.
8. From the evidence before me, the Council did not action the application proactively in the early stages or communicate as well as they could have, and this resulted in some degree of unreasonable behaviour during the consideration of the application on the part of the Council. Despite this, a non-determination appeal was not pursued at an earlier juncture.
9. Whilst I appreciate that the outcome of the application would have been a disappointment to the appellant, the Council was not unreasonable in coming to the decision to refuse and following a balanced consideration of the appeal on its merits, including the heritage benefits, I have agreed with the Council. I also acknowledge the situation with the window and the poor outcome that has resulted from it not having been installed and maintained as originally anticipated. Whilst I empathise with the appellant, the existence of harm does not justify further harm. The Council has therefore not prevented or delayed development which should clearly have been permitted.
10. The Council had reasonable concerns about the proposed development, which justified its decision. The appellant had to address those concerns and, even though the Council did not communicate well during the planning application, the appeal could not have been avoided.
11. Therefore, I have no substantive evidence that the Council has acted unreasonably in regard to the appeal. As such, the applicant has not incurred unnecessary or wasted expense in the process of the appeal.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated, thus the award of costs is not justified.

Hollie Nicholls

INSPECTOR