

## Costs Decision

Site visits made on 30 January and 28 February 2024

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

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

**Decision date: 20 March 2024**

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### **Costs application in relation to Appeal Ref: APP/K1128/W/23/3315017 All Saints Vicarage, Sparkwell, Plymouth PL7 5DB**

- 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 Exeter Diocesan Board of Finance for a full award of costs against South Hams District Council.
  - The appeal was against the refusal of planning permission for the approval to details pursuant to condition Nos 3,4,5 and 6 of a planning permission Ref 0004/19/OPA, granted on 31 July 2019.
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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 the application rather than negotiating amendments, that the Council sought information at reserved matters (RM) stage which should have formed part of the consideration of the outline planning application<sup>1</sup> (the outline) and that the Council's request to move the dwelling would have resulted in conflict with a condition on the outline.
4. The Council's Landscape Officer comments were made available to the applicant. The Council indicated they were willing to accept amendments to address those comments, despite having an adopted Planning Charter which would have normally prevented this from happening. It would appear from the submissions that the applicant did not fully address those concerns and that some information contained in an earlier version of the submission had been omitted. The Council are not duty bound to accept amendments during the determination period<sup>2</sup> and therefore, I do not find that proceeding to determine the application on the basis of the information before them was unreasonable.
5. The outline permission established the principle of a dwelling on the appeal site, with all RM's including layout being reserved for future consideration. In determining whether the layout was acceptable at RM stage, it was reasonable for the Council to consider whether the trees on and around the appeal site

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<sup>1</sup> LPA Ref: 0004/19/OPA

<sup>2</sup> Paragraph: 061 Reference ID: 14-061-20140306 of the PPG

posed a constraint to the siting of the dwelling. It was not therefore unreasonable for the Council to request further information at RM stage relating to the location of trees and measures to protect them.

6. The Council sought to negotiate the re-positioning of the proposed dwelling within the appeal site. Condition 4 of the outline requires that development is carried out in accordance with the approved drawings<sup>3</sup>. Both drawings indicate the application site with a red line. Drawing Number S2 Rev A ('the drawing') appears to indicate the siting of the proposed dwelling. Notwithstanding this, the application form was headed "application for outline planning permission with all matters reserved" and Condition 3 of the outline requires detailed drawings of its siting to be submitted for approval. On this basis, the siting of the dwelling shown on the drawing must be construed as being indicative only and I have taken Condition 3 to relate to the red outline of the application site as shown on both drawings. The Council's request would not have resulted in conflict with the approved drawings and therefore was not unreasonable.
7. 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

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<sup>3</sup> Drawing Numbers S1 Rev A (Location Plan) and S2 Rev A (Site Block Plan)