



Costs Decision

Site visit made on 8 May 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2024

Costs application in relation to Appeal Ref: APP/K1128/W/23/3332223 The Old Rectory, East Portlemouth Corner to Goodshelter Cross, East Portlemouth TQ8 8PA

- 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 Sarah Linton for a full award of costs against South Hams District Council.
- The appeal was against the refusal of planning permission for change of use from ancillary accommodation for the Old Rectory to a mixed use of ancillary accommodation and holiday letting accommodation.

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 PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples of this include *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; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; or not determining similar cases in a consistent manner.*
4. The applicant's initial submission claims that the Council behaved unreasonably in respect of those matters set out above. Detailed explanations of why the Council behaved unreasonably or the nature of wasted expense in the appeal process was not provided. The Council was only able to respond to this limited detail. I agree with the Council that the applicant could have been more cooperative by not holding back information. This amounts to unreasonable behaviour.
5. Nevertheless, the applicant's more detailed claim adds that the Council behaved unreasonably in arguing that the proposal amounted to a mixed-use development and the creation of a new planning unit. The applicant says they only applied for a change of use at the recommendation of the Council. This was because a previous S73 application to vary a planning permission was

- withdrawn in light of the Finney judgement. However, it is not appropriate for me to comment on the planning history, as this does not relate to the appeal.
6. Even so, the Council assessed the application, as applied for. In doing so, it used its planning judgement within the context of a broad collective of strategic, locational and transport policies, including DEV24 of the Plymouth & South West Devon Joint Local Plan 2014-2034. Judgements were made based on fact and degree. Whilst I have not agreed with all of the Council's arguments, I did find that there was a lack of access to public transport. Therefore, the Council did not prevent development that should clearly be permitted.
 7. Its Officer report provides a detailed analysis of why it considered the proposal did not accord with its strategy for rural economic development in coastal areas. As such, vague, generalised, or inaccurate assertions about the proposal's impact were not made.
 8. It is also claimed by the applicant that no harm has been identified in respect of the second reason for refusal. However, the Officer report and Council's decision notice clearly set out the conflict with the Council's overarching strategy to promote sustainable development. Again, I have disagreed with the Council, though this does not amount to unreasonable behaviour on its part.
 9. The applicant refers to a number of examples of cases and alleged unauthorised developments they consider to be similar to the appeal proposal. Whilst transport matters are raised, none of these examples are comparable with the appeal proposal in respect of their scale or nature. In any case, I have agreed with the applicant that the proposal has a negligible effect on traffic movements. Accordingly, no unreasonable behaviour has resulted in terms of a lack of consistency.
 10. For the above reasons, it is unlikely that the appeal could have been avoided. Consequently, I do not find that unnecessary or wasted expense has been incurred. A full award of costs is not, therefore, warranted.

J Hills

INSPECTOR