



Costs Decision

Site visit made on 5 June 2024

by J Evans BA(Hons) AssocRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Costs application in relation to Appeal Ref: APP/Q1153/D/24/3341811 Willow Tree Farm, Sampford Courtenay EX20 2SW

- 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 Paul Gibbins for a full award of costs against West Devon Borough Council.
 - The application Ref: 2772/23/HHO, dated 11 August 2023, was refused by notice dated 13 February 2024.
 - The appeal was against the refusal of planning permission for renovations and extensions of existing bungalow into a two storey chalet bungalow.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The Planning Practice Guidance 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. The general principle embodied within the PPG is that the parties involved should normally meet their own expenses.
3. The applicant is seeking a full award of costs against the Council. The applicant considers that the Council have behaved unreasonably on procedural and substantive reasons, stating that the Council did not work proactively with the applicant or his agents throughout the determination period, and there was no acceptance of a meeting or discussion for potential design changes. The applicant has also raised matters with regard to the time that was taken to issue the decision.
4. The Council in response have highlighted that on 17 November 2023, the Council advised the applicant that the application could not be supported on the basis of concerns about the effects of the proposal on the character and appearance of the area. The applicant was advised that the scheme would require revision such that the proposal would need to be considered through a fresh application. The applicant was also advised that the general principle of an extension was acceptable and, on this basis, was directed to take up the Council's Pre-Application Advice Service to discuss potential revisions to the scheme.
5. It therefore seems to me that the parties had clearly different views on the acceptability of the application proposals in character and appearance terms, which ultimately is a subjective matter that requires a degree of planning

judgment. The Council have also explained that they are currently operating in accordance with a planning customer charter that explains that planning applications will be determined based on the plans as submitted; and revisions will only be accepted where they are minor and would not require re-consultation or advertisement. It is my understanding that the charter was in place before the application was submitted and is publicised by the Council, including on their website. Therefore, it is likely that the applicant would have been aware of it. It would also be fair to assume that the Council would not depart from the charter and enter into discussions for design changes, beyond the direction that they offered on the 17 November 2023.

6. Whilst character and appearance matters can be negotiated in some circumstances, in other cases there can simply be a difference of opinion that cannot be resolved. It appears to me that there was no likelihood that the concerns of the Council on such matters could have been resolved without revisions that would go beyond what is set out in their charter. The Council also explained the process to the applicant on how to proceed with a revised scheme for their further consideration. Therefore, I do not find that the Council acted unreasonably in the manner in which they approached the application and reached their decision.
7. Turning to the time taken for the decision, I understand that whilst the application was submitted in August 2023, further information was presented to the Council in December 2023 by the applicant regarding the design approach taken and the Council have confirmed this information was taken into account in reaching their final decision. A decision was made in February 2024. It therefore appears to me that the Council were taking into account further supporting information that was presented to them by the applicant during the course of their decision making, which would impact upon the timescales for reaching a decision. I also understand that the Council requested an Extension of Time from the applicant, but this was refused. It would have therefore been open to the applicant to pursue an appeal against non-determination, if they were unsatisfied with the time it was taking to reach a decision. In any case, I have also not been presented with any particular detail as to how the time taken to reach the decision has resulted in wasted or extra expense for the applicant. I am therefore satisfied that the Council did not act unreasonably in the time they took to reach the decision.
8. As a final point, I also note that the reason for refusal is also complete, precise, specific and relevant to the application submitted. It clearly states the policies of the development plan and the material planning considerations that, in the Council's view, the proposal would conflict with.
9. I therefore conclude that the Council did not act unreasonably in coming to their decision. There is no evidence to suggest that they have unreasonably prevented or delayed the proposal in this regard.

J Evans

INSPECTOR