



Costs Decision

Site visit made on 3 July 2024

by Colin Cresswell BSc (Hons) MA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th September 2024

Costs application in relation to Appeal Ref: APP/Q1153/W/23/3334616 Town Farm, Launceston Road, Bridestowe, Devon, EX20 4EQ

- 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 Leander Developments Ltd and Mrs Jean Northcott for a full award of costs against West Devon Borough Council.
 - The appeal was against the refusal of planning permission for 28 dwellings including access, appearance, landscaping, layout, scale, and associated infrastructure.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The Council's first, second and third reasons for refusal are all associated with the character and appearance of the proposed development. In my view, the Officer Report provides a comprehensive explanation of the Council's position in relation to these matters and is substantiated by evidence. Although the appellants may disagree with the Council's position, the issue of character and appearance is largely a matter of planning judgement which the Council was entitled to take its own view on. The fifth reason for refusal, concerning low carbon development, is also substantiated by detailed evidence. Indeed, I found in favour of the Council on this issue in my main decision.
3. In terms of the fourth reason for refusal (flooding) the Environment Agency recommended that the Council postpone its decision on the application until a Flood Risk Assessment had been carried out. This response was received very late in the process and the appellants had little chance to respond. However, the Council decided to press ahead with its decision and objected on the grounds that insufficient information had been provided.
4. The necessary Flood Risk Assessment was provided in time for the appeal and this confirmed that the proposed development would not present a flood risk. Although the Council's appeal statement stops short of withdrawing the fourth reason for refusal, it acknowledges that the Flood Risk Assessment appears to have addressed the concerns of the Environment Agency.
5. Considering that the Flood Risk Assessment needed to be provided in any case (whether during the planning application process or appeal stage) it seems to me that there was no wasted effort. The Council did not contest the issue in any detail once it had reached the appeal stage and so the appellant would not have needed to spend much time responding.

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6. In terms of the sixth reason for refusal (biodiversity) the Officer Report says that the Ecology Report does not contain a biodiversity net gain calculation. However, the calculation was already provided at the validation stage and the appellants attach a copy of this to their appeal statement.
 7. Although the Council appear to have made an error here, I am not convinced that this had much bearing on the appeal process. The Council did not elaborate on its objection any further during the appeal and the appellants did little other than reference the calculation in their appeal statement. There are inevitably small errors in the planning process and this particular error did not consume much time. The appellant would have needed to provide an appeal statement in any event, if only to respond to the Council's objections on the other substantive planning issues.
 8. The seventh reason for refusal concerned the lack of any legal agreement to secure developer contributions. A unilateral undertaking was subsequently provided for the appeal, but I understand that this was delayed because the Council failed to send a template on time. However, in practice, delays in communicating with local authorities are only to be expected and the appellants would have had earlier opportunities to pursue this matter with the Council, including before the application was submitted. Hence, I am not convinced that needing to chase the Council for this template would have consumed an unreasonable amount of the appellants' time. The appeal itself was not delayed and a unilateral undertaking would have need to have been provided at some stage in the process in any case.
 9. That said, I recognise that some of the reasons for refusal could have been withdrawn had the Council accepted the additional information provided by the appellant. This includes the objection concerning flood risk and developer contributions. However, the Council was not obliged to change its position. Furthermore, the Council's appeal evidence did not attempt to defend its objections on these issues any further in light of the most recent information. Therefore, I do not consider that the Council behaved unreasonably.
 10. Even if the Council had delayed determining the application to enable further information to be submitted, the application would have still been refused on the grounds of low carbon development and character and appearance (reasons for refusal one, two, three and five). Hence, the appeal could not have been avoided. This is not a case of preventing or delaying development which should clearly be permitted.
 11. I am told that, throughout the whole process, the appellants experienced various problems in communicating with the Council. The appellant also says that the Council failed to follow its own constitution and I am aware of a Freedom of Information Request as well as accusations of bias in the determination of the application. However, the scope of this Costs Decision is purely to determine whether or not the appellant has incurred unnecessary or wasted expense in the appeal process. It is not to investigate allegations of impropriety or maladministration by the Council.
 12. I have been provided with a copy of a previous Costs Decision¹ which concerns an earlier proposal to develop the site. In that instance, the Inspector granted a partial award of costs. Although that Costs Decision addresses some similar

¹ Costs Decision: APP/Q1153/W/22/3293078

matters, I do not have access to all the evidence that was presented to the Inspector and so it is difficult to make direct comparisons. I have assessed the merits of the current costs application on its own evidence.

13. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

C Cresswell

INSPECTOR