



Costs Decision

Site visit made on 3 September 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 October 2024

**Costs application in relation to Appeal Ref: APP/X1118/W/24/3343651
Higher Mullacott, Road from St Brannocks Road to Mullacott Cross
Roundabout, Ilfracombe, Devon EX34 8NA**

- 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 S Greenwell for a partial award of costs against North Devon District Council (the Council).
 - The appeal was against the refusal of planning permission for the erection of a holiday let unit, improved access and resurfacing to create additional parking.
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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 asserts that the Council acted unreasonably in determining the planning application as contrary to Policy ST07 of the Local Plan¹. This policy sets out the spatial development strategy for the district, aiming to maintain the viability of the rural area. Of particular relevance to the appeal site's countryside location, development is limited to that which is enabled to meet local economic and social needs, amongst others. Given this, it is appropriate that the Council assess the appeal scheme against the provisions of this policy.
4. However, although Policy ST07 is referenced in the Application Report, this is limited to the concluding paragraph under the Design sub-heading. No assessment of the appeal scheme in terms of its local economic benefits is set out. Therefore, I find it unreasonable for the Council to state that the proposed development would be contrary to Policy ST07 without substantive evidence to demonstrate the reasons for this conclusion.
5. Nevertheless, Policy ST07 of the Local Plan is not the only Local Plan policy included on the decision notice. Policies ST09 and ST14 provide the overarching strategy which seeks to protect the character, appearance and tranquillity of the landscape, including the Undeveloped Coast. Policy DM18 specifically refers to locations where tourism accommodation would be acceptable and, in all cases, it should be designed to respect and enhance the key characteristics of the landscape.

¹ North Devon and Torridge Local Plan 2011-2031 (the Local Plan)

6. Whilst I have reached a different conclusion from the Council when assessing the appeal scheme against these policies, matters relating to character and appearance are largely subjective, requiring the decision maker to use their judgment. Consequently, regardless of whether or not the Council assessed the scheme against Policy ST07, the Council's concerns relating to the proposed development's effect on the character and appearance of the area would remain, leading to a refusal of planning permission. On this basis, the appeal could not have been avoided.
7. As a partial award of costs is sought by the applicant, with specific reference to the inclusion of Policy ST07 on the decision notice, I have taken into account whether this, in itself, has led to unnecessary or wasted expense. Given the limited reference to the aforementioned policy in the Application Report, it would have been unclear to the applicant as to why the Council came to this conclusion. Notwithstanding this, the applicant's Appeal Statement refers only to the previous appeal decision to demonstrate the proposed development's compliance with Policy ST07. This appeal decision is also used to justify how the proposed development complies with the other policies included in the decision notice. As a result, I consider that any unnecessary or wasted expense to the applicant concerning responding to Policy ST07 would be negligible.
8. Therefore, I conclude that the unreasonable behaviour identified above did not result in unnecessary or wasted expense and that an award of costs, partial or otherwise, is not warranted.

Juliet Rogers

INSPECTOR