



Costs Decision

Site visit made on 1 October 2024

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

an Inspector appointed by the Secretary of State

Decision date: 15 October 2024

Costs application in relation to Appeal Ref: APP/X1165/W/24/3343508 The Focсле, 54 Higher Street, Brixham, Torbay TQ5 8HW

- 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 Roy Perry for a full award of costs against Torbay Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for approval of details pursuant to condition Nos 3,5 and 9 of a planning permission, Ref APP/X1165/W/20/3259178.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. During the appeal process, the Council indicated that it would have allowed the application to discharge the conditions. Therefore, had the application been processed in time, the appeal could have been avoided. According to the Planning Practice Guidance (the PPG) this amounts to unreasonable behaviour on behalf of the Council. 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.
3. I have sympathy with the Council as I am aware that planning departments are under significant pressure. It is not unusual for applications to take a long time to process or for matters to be overlooked. However, this is not the fault of the appellant and I am guided by the provisions of the PPG.
4. The PPG advises that costs apply to unnecessary or wasted expense incurred during the *appeal* process rather than the application process. In this case, the appellant had to spend time pursuing the appeal, including the preparation of an Appeal Statement and other written material.

Conclusion

5. I conclude that the Council has demonstrated unreasonable behaviour during the appeal process. This has led to the appellant incurring unnecessary expenses and a full award of costs is justified. The actual amount of the unnecessary expense is not a matter for this costs decision.

Costs Order

6. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that

Torbay Council shall pay to Mr Roy Perry, the costs of the appeal proceedings described in the heading of this decision.

7. The applicant is now invited to submit to Torbay Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on an amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Cost Office is enclosed.

C Cresswell

INSPECTOR