



---

## Costs Decision

Site visit made on 13 December 2024

**by Adrian Hunter BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 03 February 2025**

---

### **Costs application in relation to Appeal Ref: APP/K1128/W/24/3346226 Land at Sx 677 403, Weymouth Park, Hope Cove**

- 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 Steven Carter for a full award of costs against South Hams District Council.
  - The appeal was against the refusal of planning permission for erection of a two storey dwelling house containing residential annex (Retrospective).
- 

### **Decision**

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

### **Reasons**

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
3. The claim for costs is based on the unreasonable behaviour of the Council in the way they handled and considered the appeal application. This includes misinterpretation of submitted documents, failure to consider submitted details, incorrect consideration of supporting evidence and refusal to engage with the applicant to resolve issues. In the view of the applicant, these all add up to unreasonable actions of the Council, which has led them to the unnecessary expense.
4. In the Officer's Report, the proposal is referred to as a 4-bedroom dwelling and considers that the annex is to be provided on the upper floor. Both of these interpretations of the application drawings are inaccurate. Furthermore, the reference to the proposal being a 4-bedroom dwelling is repeated again within the Council's appeal statement, where it is stated; *'The Appellant has also not disputed that the dwelling is capable of being occupied as a 3-or 4-bed dwellinghouse;...'*
5. In response, the Council consider the assessment of how many bedrooms to be a matter of judgment. I however disagree. The plans clearly show the provision of no more than 3-bedrooms and are clearly labelled to avoid any

potential ambiguity. Moreover, I note that the original application form in answer to the questions on Self-build and Custom Build, clearly identify the proposed development to be a proposal for a 3-bedroomed development. It is therefore not a matter of planning judgement, but a matter of fact that the application was for a 3-bedroom dwelling, with the ground floor bedroom being part of an annex.

6. From my reading of the Officer's Delegated Report and the subsequent Appeal Statement of Case, this misinterpretation and misrepresentation of the facts are central to the decision the Council took in refusing the appeal application. However, whilst the Council clearly made an error in their interpretation of the plans, I am not convinced that, given the evidence before me in relation to housing need, in particular a need for the provision of smaller units, they would have come to a different decision had they considered the application proposals correctly. Therefore, regardless of the error of the Council, I consider it likely that the appellant would have had to resort to the appeal process to resolve the matter in any event. As such, I do not consider that the behaviour of the Council to be so unreasonable as to have put the appellant to additional expense.
7. In relation to the claim that the Council failed to correctly interpret their housing data, I note the contents of the Officer's Report in relation to this. The Council also provided further evidence in their Appeal Statement. I find that the relevant sections of the Officer's Report, the reasons contained within the Council's decision notice, and the additional clarification detailed within their Appeal Statement provide sufficient justification, explanation and evidence of their concerns. It therefore follows that, whilst it will be seen from my decision on the appeal application that I have come to a different view, I am satisfied that the Council has shown that it was able to substantiate its reason for refusal and that it correctly applied the relevant data.
8. I understand the sense of frustration that a lack of engagement from the Council, both before the submission and during the consideration of the appeal application might have caused. Had the Council engaged more with the appellant during the course of their consideration of the appeal application, it may well have resulted in a focusing of the issues between the parties. However, that said, there is no evidence to suggest that, if these discussions had taken place, it would have resulted in a situation where the Council's concerns were fully addressed, and the outcome of the appeal application changed.
9. Therefore, on the basis of the information before me, it would not be reasonable to conclude that the Council behaved unreasonably in the procedure leading up to the appeal or in the determination of the appeal application. Therefore, whilst the Council could have engaged better with the appellant, I do not find that it has put the appellant to unnecessary or wasted expense.

## **Conclusion**

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Adrian Hunter*

INSPECTOR