



Costs Decision

Site visit made on 22 October 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2025

Costs application in relation to Appeal Ref: APP/K1128/W/23/3331771 Sheerwater, Devon Road, Salcombe, Devon TQ8 8HJ

- 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 & Mrs R Guess for a partial award of costs against South Hams District Council.
 - The appeal was against the refusal of planning permission for demolition of existing dwelling and construction of new replacement dwelling including existing garage renovation and associated landscaping.
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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 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 Council's third reason for refusal is the subject of the applicants' costs application. It stated that *the applicant has not demonstrated that the harm to protected species through loss of a bat roost to facilitate the replacement of an existing dwelling with a larger one is justified by imperative reasons of overriding public interest, contrary to the provisions of DEV26.*
4. The applicants' issue relates to the part of the reason for refusal that sets out that the refused application did not include information to demonstrate that the harm caused to protected species as a result of the loss of a bat roost was justified by imperative reasons of overriding public interest.
5. The Bat Survey Update report, compiled by Green Lane Ecology and dated July 2022, advised that the demolition of the existing dwelling would result in the loss of a summer non-breeding day roost for one Common pipistrelle, which is described in the report as low conservation importance when considering the type of roost and the species of bat which are common and widespread. As such, the report concluded that the works can be registered under a Bat Low Impact Class Licence.
6. I acknowledge that Natural England's guidance sets out that where an identified species is not of regional or national importance and the proposed development includes small scale housing development which affects a bat roost (including the demolition of an existing dwelling or building), a 'Reasoned Statement' is categorically not required.

7. However, it needs to be borne in mind that Natural England make the decision whether or not to grant a license, and the decision maker needs to be confident that there would be a reasonable prospect of the licence being granted by Natural England in order for planning permission to be granted. Given that a license can only be granted by Natural England if the development meets three derogation tests, the Council refusing the application on the basis that it was not demonstrated that the development is necessary for imperative reasons of overriding public interest was not unreasonable.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Reeves

INSPECTOR