



Costs Decision

Site visit made on 11 March 2025

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2025

Costs application in relation to Appeal Ref: APP/W1145/W/24/3348227

Little Hayes Lakes, Ashreigney EX18 7NG

- 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 Torridge District Council for a full award of costs against Ms Lorna King.
 - The appeal was against the refusal of planning permission for “change of use from a mixed use of agriculture and commercial, to a mixed use of agriculture, commercial and for tourism involving the installation of 4 no. cabins for holiday accommodation”.
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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. Awards against an appellant may be procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal. In respect of procedural matters, the PPG provides examples of unreasonable behaviour which may result in an award of costs. This includes delay in providing information or other failure to adhere to deadlines; only supplying relevant information at appeal when it was requested, but not provided, at application stage; or introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen.
4. The type of behaviour that may give rise to a substantive award against an appellant includes where the appeal or ground of appeal had no reasonable prospect of succeeding. This could be where the development is clearly not in accordance with the development plan and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
5. Substantively, the Council claims that the appeal had no prospect of succeeding as the proposal is said not to have related to existing tourism. While I have ultimately agreed with the Council in respect of the compliance or otherwise with its tourism policies, the appellant presented a detailed and well considered summary of how and why they felt the scheme complied with the development plan, including reference to the National Planning Policy Framework. Even though the detail

surrounding specific parts of the Town and Country Planning (General Permitted Development) (England) Order 2015 was not set out, the type of permitted development was advanced to compare relative levels of harm from potential fallback positions. Although I have not agreed with the appellant's analysis, the information cannot be said to be inadequate. No unreasonable behaviour has been displayed by the appellant.

6. Procedurally, the Council claims that the new evidence in relation to biodiversity submitted with the appeal is substantial. As a result, it says it has not been able to respond in the manner it would have done if this had been presented during the application. While this earlier information could have been useful, the appellant was attempting to address a reason for refusal. Additionally, it is not clear whether or not they were aware of any concerns in this respect during the application.
7. As noted by the appellant, the Council had plenty of opportunity to review what was not an excessively long or complex report as part of the appeal. As this is a written representations case, there has been no need for an adjournment as set out in the PPG. I note the appellant's comments in respect of ongoing communications between the Council and their ecologist. Nevertheless, for the reasons given, I do not find extra expense or preparatory work has been involved in the appeal.
8. I therefore conclude that there has been no unreasonable behaviour or wasted expense in the appeal process.

J Hills

INSPECTOR