



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 Ms Lorna King for a full award of costs against Torridge District Council.
 - 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 a local planning authority may be either 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. These include where there has been a lack of co-operation with the other party or parties or, providing information that is shown to be manifestly inaccurate or untrue.
4. Additionally, the PPG says that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples of this include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis, and refusing planning permission on a planning ground capable of being dealt with by conditions.
5. Procedurally, the applicant claims that the Council behaved unreasonably before the application was made valid. This is in respect of the green roofing. While the Council took some time to validate the application, the nature of the development and its history have some complexities, and I do not find the Council's behaviour amounts to a lack of co-operation. Moreover, this was not part of the appeal process and cannot be the subject of a costs claim.

6. Additionally, the applicant says the Council misunderstood how planning conditions operate in respect of a 2008 permission and the knock on effect this has on the status of the appeal site. I have however found in the main decision that there is no compelling evidence to show other ponds or the appeal site has been used for much more than private wildlife waters stocked with fish. Therefore, the Council has not provided information that is shown to have been manifestly inaccurate.
7. The Council's reference to the 5th caravan is claimed to represent a mistake that shows a lack of care and attention, or co-operation as identified in the PPG. While the application form identified 4 caravans, the applicant agreed to a change in description that referenced a caravan site. Within that site, the plans show more than 4 caravans. As such, it is not unreasonable for the Council to have referred to this additional unit in this way.
8. The applicant rightly claims that the Council falsely asserted that there is no online presence in relation to the purported enterprise. In that context, the Council could have chosen its language more accurately, though the onus would have been on the applicant to demonstrate their case in respect of any existing enterprise. Even though such a false claim could be at risk of an award of costs, the applicant still needed to attempt to demonstrate the presence of an existing enterprise as part of the appeal. Therefore, no unnecessary or wasted expense has been incurred in respect of this matter.
9. The Council's claim that there would be no realistic prospect of the applicant using certain permitted development rights is somewhat misguided. Within the evidence, the applicant states that these options would be more likely to be explored if the appeal were not to succeed. The applicant has not specified or convincingly shown which parts of the Town and Country Planning (General Permitted Development) (England) Order 2015 would be carried out. In any case, I have found in the main decision that even if these amounted to a realistic prospect, they would be less harmful than the proposed development. Moreover, such permitted development rights could be used in addition to the proposed development, had I been otherwise minded to allow the appeal. Overall, the Council gave little weight to any fallbacks, which I have agreed with.
10. Turning to substantive matters, it is claimed that the Council unreasonably prevented the proposed development which the applicant says complies with the development plan and other material considerations. Ultimately, I have agreed with the Council in this respect and therefore no unreasonable behaviour has taken place.
11. It is claimed that the Council failed to produce evidence to substantiate each reason for refusal. I have agreed with the Council's reasons for refusal, which set out clearly how each element of the scheme would be in conflict with the development plan. This is backed up by detailed commentary relating to the identified harm within the submissions, which, in the round, I have agreed with. No unreasonable behaviour has been shown. Additionally, it is not considered that planning conditions could have overcome the reasons for refusal.
12. For the reasons given, the appeal could not have been avoided. Consequently, although the Council made false claims about the online presence, it did not behave unreasonably in all other respects, and I find no wasted expense in the appeal process.

J Hills

INSPECTOR