



Costs Decision

Site visit made on 12 February 2025

by H Faulkner BSc (Hons) MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Costs application in relation to Appeal Ref: APP/Y1138/W/24/3350606 Shadow Pond Lane, Stoodleigh, Tiverton, Devon EX16 9PW

- 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 David Harris for a partial award of costs against Mid Devon District Council.
 - The appeal was against conditions of a permission issued by the Council in the notice of their decision relation to planning permission for Erection of 7 workshops (Use Class B2) and cafe to serve development (Use Class E) following demolition of general industrial buildings.
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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, 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. The applicant submits that the change in the wording of condition 6 from what was recommended in the committee report was unreasonable. The condition as attached included the requirement to connect to the main sewer would place an intolerable burden on the development with the cost of the works being £374,876.58. It considers that the condition does not meet the tests set out in the National Planning Policy Framework (the Framework) as it is not reasonable or necessary. Furthermore, it references paragraph 201 of the Framework (previously paragraph 194) which relates to the focus of planning decisions being on whether the use of land is acceptable rather than the control of processes or emissions (where these are subject to separate pollution control regime).
4. The applicant also states that as the condition is pre-commencement it should have been agreed beforehand, which it was not and they would not have agreed to it.
5. Given my findings within the decision I do not find the Council acted unreasonably. I found that the condition as attached complied with local and national policy. The cost of connecting to the sewer is acknowledged however I concluded that there was insufficient evidence that this made the proposed development unviable
6. I accept that matters of pollution control can be dealt with separately from planning where there is another regulatory regime, however, the matter here was whether the proposed development should connect to the main foul sewer in accordance

with established planning policy and there was insufficient evidence that an alternative should be used.

7. Condition 6 is not a pre-commencement condition as it requires the connection to the public sewer before the development is above foundation level. Therefore, there was no requirement to seek the agreement of the applicant before attaching it to the permission. In any event the Council has provided an email from the applicant, dated the 8 August 2024, the day before the permission was issued agreeing to the wording as it appears on the decision notice.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

H Faulkner

INSPECTOR