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Case No: AC-2023-LON-000285

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 23/05/2024

Before :

Karen Ridge sitting as a Deputy High Court Judge

Between :

Dr Caroline Rye
- and -

Claimant

**Secretary of State for Levelling Up, Housing and
Communities**
-and-

**First
Defendant**

Derek Warwick Developments
-and-

**Second
Defendant**

South Downs National Park Authority

**Third
Defendant**

Piers Riley Smith (instructed by **Richard Buxton Solicitors**) for the **Claimant**
Scott Stemp (instructed by **Moore Barlow Solicitors**) for the **Second Defendant**

COSTS JUDGMENT

Deputy High Court Judge Karen Ridge:

1. This is my ruling on the costs issues which have arisen between the Claimant and Second Defendants (D2) following my judgment in relation to an application for statutory review under section 288 of the Town and Country Planning Act 1990. By agreement both parties have made written submissions which I have considered carefully.
2. The usual rule in civil proceedings is that costs follow the event. In this case the Claimant was successful in her claim pursuant to my judgment of 22 February 2024. Matters have been somewhat complicated by virtue of the First Defendant (D1) withdrawing its opposition to proceedings following the grant of permission on 21 June 2023. That withdrawal was on the basis that D1 agreed to pay £10,000 of the Claimant's costs.
3. The Claimant's submissions seek a contribution from D2 in the sum of £25,000 towards its total costs of the proceedings of £42,648.24 (vat inclusive). For the purposes of summary assessment the Claimant contends that some 75% to 80% of her costs are attributable to the conduct of D2 and suggests an award of £25,000 (inclusive of VAT) as the appropriate contribution from D2.
4. D2 makes its submissions having regard to the different stages of proceedings and suggests the sum of £4,878.23 contribution to reflect the work done to the grant of permission; £77.40 for the additional work up to D1 withdrawal from proceedings and then £12,981.29 to the end of proceedings.
5. **Costs to Grant of Permission on 21 June 2023:** the Claimant's total costs to the grant of permission were £27,329.71, of which D1 is to pay £10,000.00. I agree with D2 that costs should be awarded on the standard basis and note the suggestion of 85% recovery of the remaining £17,329.71 which would equate to some £23,230.25.
6. I do not accept that costs should be subject to a further 30% reduction on the basis that the Claimant succeeded on one of two grounds. The Claimant is clearly the successful party and I see no reason to deviate from the usual provision that the winner is entitled to recover their costs.
7. The Claimant submits that D2 submitted summary grounds of resistance running to 44 pages and that D2 took issue with the levels of costs protection claimed. I acknowledge that there was some additional work undertaken by the Claimant's representatives in relation to an addendum statement of financial resources and that an element of that work is recoverable. In relation to the Summary Grounds of Resistance filed by D2, the Order granting permission records that D2's Summary Grounds did not materially add to the grounds advanced by D1. Notwithstanding that, D2 clearly submitted lengthy detailed grounds of resistance which would have had to be considered by the Claimant.
8. Taking all of these matters into account I consider that it would be reasonable to require D2 to meet 40% of the Claimant's costs on a standard basis for this stage of proceedings. This equates to £9,272.11 (VAT inclusive).

9. **Additional Costs from Permission to Withdrawal of D1:** the Claimant's costs at this stage amount to £399.60 (inclusive of VAT) and both parties agree that an appropriate contribution from D2 would be £77.40 (including VAT).
10. **Costs from D1 Withdrawal to Judgment:** the Claimant's costs here amount to £15,272.11 (including VAT). These are recoverable on a standard basis and the representatives of D2 submit that the sum of £12,981.29 is the appropriate starting point. The Claimant's costs at this stage are reasonable and proportionate to the nature of the proceedings and I am satisfied that she should recover the sum of £12,981.29 (inclusive of VAT) in relation to these costs.
11. **The Costs Award:** if my accounting is correct, the total award payable by D2 in relation to the Claimant's costs is £22,330.80. I would ask that Counsel now agree an appropriate order to reflect my earlier judgment and this costs ruling.