
Costs Decision

Hearing held on 9 May 2017

Site visit made on 9 May 2017

by Paul Dignan MSc PhD

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 July 2017

Costs application in relation to Appeal Refs. APP/R3325/C/16/3154414 and APP/R3325/W/16/3154205

Crimson Orchard, Top Road, Curry Mallet, Taunton, Somerset, TA3 6AW.

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr J Carson and Ms R Davies for a full or partial award of costs against South Somerset District Council.
 - The hearing was in connection with appeals against an enforcement notice alleging the change of use of the land to a mixed use of agriculture and residential by the siting and residential occupation of 2 mobile homes and against the refusal of a planning application for the same.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Costs can be awarded where unreasonable behaviour leading to unnecessary or wasted expense has been demonstrated.
 3. The application was made in writing, and an additional ground was raised orally at the hearing. First, it is submitted that it should have been clear to the Council that the development concerned was in accordance with the relevant development plan policies, and specifically Policy HG7 of the adopted South Somerset Local Plan (2006-28) (LP) which deals with the provision of accommodation for Travellers. This relates specifically to the assessment of landscape character and visual amenity. The appellant submitted a landscape consultant's assessment, which concluded that there would be no such harm, and the Council's own Landscape Architect also advised that the adverse impact in this respect would barely extend beyond the site's parameters and its access. The Council accepted this advice, but the Planning Committee still considered that there was landscape harm. The Committee is entitled to come to its own view, and in this case I am satisfied that the Council satisfactorily defended its position on this matter, notwithstanding that I came to a different view.
 4. Second, it is submitted that the Council, in its appeal statement, introduced a new reason for refusal, namely the traveller status of the occupiers. I did not regard the Council's views on the status of the occupiers of the site as the
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introduction of a reason for refusal, and it was a matter that I needed to consider in any case.

5. Third it was submitted that it should have been clear to the Council from the outset that drainage was a matter that could be dealt with by condition, and that the appellants have had to incur unnecessary expense in the commissioning of drainage evidence. However, problematic drainage at the site had been raised previously and the planning application did not satisfactorily deal with it. The Council withdrew its objection on this matter as soon as adequate evidence was available, and I consider that its conduct in this respect was entirely reasonable. Furthermore, it is difficult to see that this matter caused the appellants any unnecessary expense whatsoever.
6. The fourth matter raised was that the Council should have treated the best interests of the child on the site as a primary consideration rather than as an important consideration. The Council was incorrect on this point, but it is a very technical point, and not one on which I consider it likely that the Council's decision would have turned. I do not accept that it caused the appellants unnecessary or wasted expense.
7. Overall, I am not satisfied that it has been demonstrated that there was unreasonable behaviour on the part of the Council that led the appellants to incur unnecessary or wasted expense. I conclude accordingly that an award of costs, either partial or in full, is justified.

Paul Dignan

INSPECTOR