
Costs Decision

Hearing Held on 12 February 2019

Site visit made on 12 & 15 February 2019

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 1 March 2019

Costs application in relation to Appeal Ref: APP/F0114/W/18/3208289 Land to the south of Widcombe Lodge, South Widcombe, Hinton Blewett, Bristol

- 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 & Mrs Cotterell for a full award of costs against Bath & North East Somerset Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for new house of exceptional quality & innovative nature of design.
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Decision

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

The Submissions for Mr & Mrs Cotterell

2. The initial Application was made in writing prior to the Hearing, and further submissions were made at the Hearing;
3. Whilst nothing additional has arisen during the Hearing with regard to this application, the Council did not give enough weight to the use or findings of the design review panel as required in paragraph 129 of the National Planning Policy Framework; *'local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels'*. While it is agreed that they are not bound by the recommendations, the Council did not either agree or disagree. They cannot simply ignore it. No weight was attached to the biodiversity enhancements.

The Response by Bath & North East Somerset Council

4. The Council's initial rebuttal was made in writing prior to the Hearing, and further submissions were made at the Hearing in response to those of the appellant;
5. The Council's website endorses the use of design review panels, but the Council is not bound by them, the Officer's Report acknowledges that the scheme has been through the panel process but that Report is clear that the Council do not agree.

Reasons

6. The Planning Practice Guidance advises that parties in planning appeals and other planning proceedings normally meet their own expenses, but that where

a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.

7. The proposal was promoted to be in line with the exception in national policy that could allow an isolated home in the countryside. That was how the Council judged the proposal and found it not to comply. Whilst the accompanying Appeal Decision has determined that the location should not be considered isolated in the sense determined in the 'Braintree' judgments, the Appeal Court Judge stated that whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand. The Council's planning judgment was reasonable in that respect.
8. The Reason for Refusal is concise but clear and references the failure to accord with the limited exception in the Placemaking Plan as well as the proposal not meeting the wider possible justification set out in the then national policy. The proposal was therefore found to be contrary to policy on the protection of the countryside and the Area of Outstanding Natural Beauty in particular, including the policies of a Neighbourhood Plan.
9. The Officer's Report on which that refusal was based correctly set out the main considerations and evidence was presented in the Appeal Statement to the effect that the proposal would cause harm to the character and appearance of the area. It is clear that the Landscape and Visual Impact Assessment was taken into account and it appears unlikely that if an error as to visibility from Prospect Stile was present in internal representation, that this was carried over into the Report as the Assessment appears accurate as to visibility. It is the case that the dwelling would be seen from certain viewpoints as stated, and the conclusions that it would appear out of character is a reasonable one.
10. Areas of Outstanding Natural Beauty can be the location for new buildings, and there is no reason why a paragraph 79e) dwelling should not be placed within such a designated area. The internal representation to the contrary was not carried forward into the Report and that document sets out a reasonable argument as to why the proposal was considered to be unacceptable given the presence and attributes of the built form already in place and forming part of the landscape character of the Area of Outstanding Natural Beauty.
11. The accompanying Appeal Decision has reached different conclusions with regard to certain aspects of the paragraphs 79e) requirements, and due to the finding of the location not being isolated, has assessed the proposal against paragraph 131 as the more appropriate test. That Decision makes clear that it is the lack of true remoteness that has led to a conclusion that the proposal would cause harm through not taking the built form nearby sufficiently into account in the scale and form of the proposal.
12. The paragraph 79e) requirements are a high test and the Council have applied them reasonably having regard to the site and surroundings. The agricultural aesthetic does appear to have been understood and the statement that true agricultural buildings would be seen as an accepted part of the landscape is a reasonable response; no matter that some of the agricultural buildings are large and not particularly attractive, and appear not to accord with the Area of Outstanding Natural Beauty guidance, they are generally an accepted part of a rural landscape in an area of dairy farming such as this.

13. There is no evidence that the Council has attempted to impose a particular style or expectation of style on the proposal, and no evidence that there was a prejudging against the premise of a contemporary design. But, policy at local and national level requires development to acknowledge the landscape qualities of the area, and in this case the Development Plan includes a 'made' Neighbourhood Plan. That acknowledgement should have taken more account of the built form already in such close proximity to the site that forms part of the landscape character. The Council Officer's Report, the resulting reason for refusal, and the Appeal Statement all take this approach, and that was reasonable.
14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S J Papworth

INSPECTOR