
Costs Decision

Site visit made on 27 August 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2019

Costs application in relation to Appeal Ref: APP/Q3305/W/19/3230878 Land at Port Way, Hemington, Somerset, BA2 7RE

- 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 Connor Swift for a full award of costs against Mendip District Council.
 - The appeal was against the refusal of consent for the change of use of existing agricultural building to form one dwelling.
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Decision

1. The application for costs is refused.

Reasons

2. Planning Practice Guidance advises that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. On the issue of the neighbouring barn, I recognise that there was no clear objection from the Environmental Health Department, but it is up to the Planning Department whether they wish to accept the advice in totality or come to a different decision. As can be seen from my Decision Letter, I recognise that the barn on the neighbouring land may not be used intensively for farming currently in a way that could significantly affect future occupants of the appeal proposal. However, this could change in the future and I do not find it unreasonable for the Council to come to the decision they did, even if, on balance, I came to a different decision on this matter.
4. With regards the highway issue, I note that standing advice was issued by the Highways Authority. However, this is still advice and this includes what could be necessary as a requirement for vision splays. Again, I do not regard the Council as unreasonable to come to its conclusions based on the standing advice, especially as no substantive evidence was provided to the contrary at the time of the planning application.
5. This is an existing access used by agricultural vehicles, but what is proposed is a change of use to a dwelling which clearly differs from the current circumstance. Whilst I am aware it is an existing agricultural access this does not necessarily mean it is appropriate for a residential development. Also, as

you will be aware, I have dismissed the appeal based on the evidence before me on this matter.

6. Overall, whilst the applicant states that there was a lack of evidence clear reasoning for the Council's reasons for refusal, I found the reasons for refusal and the subsequent statements from the Council to be sufficiently thorough and reasoned to explain their decision.
7. Comments by the applicant have made clear that they believed there was a lack of communication from the Council with regards the concerns they had before refusing the application. Whilst good levels of communication through the application process is encouraged, I have not seen any substantive evidence before me that this would have changed the outcome of the Council's decision. For example, further highway evidence has been submitted by the applicant, but this has not led to the withdrawal of the relevant Council reason for refusal, and so if this was submitted earlier in the process the indications are that the Council would still have refused the planning application.

Conclusion

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 for costs is therefore not justified.

S. Rennie

INSPECTOR