



Costs Decision

Site visit made on 6 November 2019

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 December 2019

Costs application in relation to Appeal Ref: APP/F0114/W/19/3232605 Priory Nurseries, Radstock Road, Midsomer Norton BA3 2AW

- 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 Bath & North East Somerset Council for a full award of costs against Mr R. Thorner on behalf of Flower and Hayes Developments.
 - The appeal was against the refusal of planning permission for the proposed erection of 4no. single storey dwellings, associated car parking and garaging.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably, and that the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Awards can be based on either procedural or substantive matters.
3. The PPG states that a substantive award of costs might be justified where the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where the Secretary of State or an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period.
4. It is the Council's case that the guidance set out above is relevant to this appeal. However, since the previous appeal decision, a new National Planning Policy Framework (the Framework) has been published which provides policy that is relevant to the appeal site. Whilst I have concluded in the same manner as the previous Inspector, the new Framework represents a material change in circumstances against which the proposal should be assessed. Consequently, whilst the proposal has clear similarities to the previous scheme, the appellant has not acted unreasonably by pursuing the appeal.
5. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Martin Chandler

INSPECTOR