The Planning Inspectorate

Costs Decision

Site visit made on 27 January 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th April 2020

Costs application in relation to Appeal Ref: APP/W3330/19/3240938
Land to the rear of 16 Town Farm, North Curry TA3 6NP

- 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 West of England Developments Ltd for a full award of costs against Somerset West and Taunton Council.
- The appeal was against the refusal of planning permission for the erection of a bungalow.

Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) 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 or wasted expense in the appeal process.

3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

4. The application for costs relates to the fact that the Council Officer's recommended that planning permission be granted for the proposal, but that Council Members took a different course of action without adequate reason to do so. In particular, it is claimed that the ecology information submitted with the application provided sufficient information to fully assess the impact of the proposal.

5. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached, the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In refusing the application, Council Members considered that there was insufficient evidence upon which to assess the ecological impacts of the development. They therefore appear to have taken a pre-cautionary approach and refused the application for this single reason. I note that the Officer's report highlighted the ecological issues. A planning condition was recommended, specifically in relation to reptiles, to ensure appropriate ecological mitigation measures would be delivered.

6. I note the July 2019 ecology report in relation to reptiles, where it concluded that the site had the potential to support slow worm and potentially common lizard and, that works to facilitate construction had the potential to kill/injure reptiles. Therefore, at the time the appeal application was considered by Planning Committee, there still appeared to be ecology information that was outstanding.

7. On this basis, the Planning Committee were entitled to take the view that, at the point they were assessing the application, there was insufficient evidence to fully understand the full ecological impact from the proposed development. Whilst Officers considered that the matter could be adequately addressed by condition, this was not binding on Members, who were entitled to take a different approach. I also note the claimant's reference to the fact that Members could have deferred the application to allow time for the additional information to be submitted. Again, whilst this was an option available to them, there was no requirement for them to follow this route.

8. Subsequently, additional survey information (dated October 2019) was completed and submitted alongside the appeal by the appellant. As a result of these additional survey results, the Council felt unable to defend the appeal. The fact that the Council were unable to substantiate their reason for refusal, relates to the fact that the information to address Member's concerns was submitted after the decision, and not that the decision taken by the Planning Committee was unreasonable.

9. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Adrian Hunter

INSPECTOR