



Costs Decision

Site visit made on 25 August 2020

by Rachael Pipkin, BA (Hons), MPhil. MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th September 2020

Costs application in relation to Appeal Ref: APP/R3325/W/20/3253867 Land at Tail Mill, Tail Mill Lane, Merriott, TA16 5PF

- 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 Patrick Quinn for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of planning permission for development described as '2 no. commercial steel portal frame buildings with the provision for car parking, access and turning areas. The proposed buildings are to provide employment opportunity for SME businesses and to the local residents of Merriott'.
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Decision

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

Reasons

2. 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 expense in the appeal process. The PPG makes it clear that a local planning authority is at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal.
3. The applicant contends that the Council has behaved unreasonably by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. He considers that the Council has provided vague and generalised assertions about the proposal's impact, which are unsupported by any objective analysis.
4. In summary, the planning application which is the subject the appeal was originally submitted to the Council's Planning Committee with a planning officer's recommendation that permission be refused. The Planning Committee deferred its decision to allow further work to be undertaken to address their concerns with the scheme. Discussions took place between the applicant, planning officer, chair of the Planning Committee and Ward Member. When the application was reconsidered by the Planning Committee, the planning officer recommended approval, but the Planning Committee did not accept the recommendation and determined that planning permission should be refused.
5. The fact that a decision was deferred to enable concerns to be addressed does not offer any assurance that an amended scheme will be acceptable. It would

still need to be considered by the Planning Committee and for the Committee to take a view on whether any amendments overcame their concerns and whether planning permission should be granted. This happened in this case.

6. The decision is one which is a matter of judgement. The fact that the Planning Committee did not agree with the planning officer's recommendation does not in itself constitute unreasonable behaviour. Members are entitled to reach a different view so long as they clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
7. The reasons for refusal set out in the decision notice are complete, precise, specific and relevant to the application. They also clearly state the relevant development plan policy against which the scheme was found to be in conflict. The Council provided an appeal statement which set out a detailed justification for the Members' decision. It will be seen from my decision that I have agreed with their view.
8. I acknowledge that discussions took place to negotiate amendments to the scheme and that this involved the chair of the Committee and the Ward Member who may have indicated support for the amendments. However, this does not provide confirmation that the scheme would be accepted by the Planning Committee.
9. I am satisfied that the Council has substantiated its reasons for refusal and provided objective analysis of the proposal's impact. I am therefore satisfied that the Council acted reasonably in refusing the application and the applicant has not incurred unnecessary or wasted expense in the appeal process.

Conclusion

10. I therefore 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.

Rachael Pipkin

INSPECTOR