
Costs Decisions

Site visit made on 15 July 2020

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2020

Costs application in relation to Appeal Ref: APP/V3310/W/20/3245046 OS Field No. 2559 to the east of Axbridge Moor Drove, Axbridge

- 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 Robin Heal for a full award of costs against Sedgemoor District Council.
 - The appeal was against the refusal of planning permission for change of use of existing stable block building to a 1 bedroom dwelling house, including soft landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may 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 appellant states that the appeal was unnecessary as the LPA have acted unreasonably by being inconsistent in their decision making with a previous application and appeal at the site and they may have taken a different course of action and not incurred associated costs. From the evidence before me, flood risk was not raised as a reason for refusal for a previous application at the site.
4. Whilst I acknowledge the appellants concerns, I do not find that the Council was unreasonable in consulting the Environment Agency (EA) given national standing advice contained within 'Review individual flood risk assessments: standing advice for local planning authorities' referred to in Paragraph: 043 Reference ID: 7-043-20150415 of the PPG. This states that within Flood Zone 3 the EA should be consulted for development involving a change of use where the flood risk vulnerability classification will be either 'more vulnerable' or 'highly vulnerable'.
5. Although not raised as a reason for refusal with the previous application at the site, flood risk is evidently a material consideration. In lieu of a consultation response received from the EA in line with the above advice, it would have been remiss of the Council not to have raised this as a reason for refusal for the latest application. As such this issue would have needed to have been addressed by the appellant and a Flood Risk Assessment accompanied the application. Any associated incurred cost does not to my mind amount to unreasonable additional costs. Turning to the substantive matter at issue, flood risk, my decision makes it clear that I agree with the conclusions of the EA and

Council in this matter. On balance, although I note the appellants comments that flood risk was not raised previously as a reason for refusal, I do not find that it has been demonstrated that the Council was unreasonable in terms of when and how it reached its decision to refuse planning permission.

Conclusion

6. For the reasons outlined above, I therefore conclude that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated. Consequently, an award of costs is not justified.

Robert Lankshear

INSPECTOR