
Costs Decision

Site visit made on 21 July 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th October 2020

Costs application in relation to Appeal Ref: APP/F0114/W/20/3249124 Rosemere, Homefield Road, Saltford BS31 3EQ

- 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 Mrs Helen Franklin for a full award of costs against Bath & North East Somerset Council.
 - The appeal was against the refusal of planning permission for the construction of a new dwelling and gate house following the demolition of Rosemere at Homefield Road, Saltford BS31 3EQ.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance (PPG) 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. The PPG provides a number of potential examples of unreasonable behaviour by local planning authorities including amongst other things failure to produce evidence to substantiate each reason for refusal on appeal.
3. It is the applicant's contention that the Council acted inappropriately in raising matters that had no technical basis, such as the presence of habitats for protected species and the effect of the proposed development therein. Furthermore, and in general, the applicant contends that the reasons for refusal were vague and unsupported by objective analysis.
4. The Council's appeal statement deals with each reason for refusal in turn but does not provide detailed objective analysis about the effects of the proposal or why the reasons for refusal are substantive.
5. Instead, the statement provides a summary of the planning officer's recommendation to approve the application, whilst noting that members were entitled to take an opposing view in making their decision and providing summary conclusions and referencing the minutes from planning committee.
6. The minutes from planning committee appear to summarily conclude on the proposal's effects without adequate evidence or reasoning preceding it. Consequently, there is a failure to demonstrate that the matters underpinning each reason for refusal are substantive.

7. For example, the minutes reference the proposal as being in an elevated position in a sensitive location but it is not stated why these are problematic in and of themselves, or how specific elements of the proposal might be incompatible with such a context and why refusing the application was therefore reasonable.
8. I note reference to the presentation given at planning committee, but I only have the minutes with which to assess the depth of reasoning in the decision making process. There are vague and generalised assertions running through the Council's evidence and all three of the reasons for refusal are fundamentally unsupported by sufficient levels of objective analysis.
9. Regarding the third reason for refusal in relation to habitats and species, there is no cogent evidence suggesting that habitats or species (including bats among others) are likely to be present or inhabit the site, or that it serves wider regional connectivity. Ecological surveys were not required by the Council during the application's validation nor were any consultation responses received from relevant Council departments suggesting that such information was central to determining the application.
10. The report commissioned after the Council's decision also demonstrates that the proposal is acceptable in this context and appears to have been prepared in response to unsubstantiated claims.
11. It is therefore found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Bath & North East Somerset Council shall pay to Mrs Helen Franklin, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Bath & North East Somerset Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Liam Page

INSPECTOR