



Costs Decision

Site visit made on 5 October 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2020

Costs application in relation to Appeal Ref: APP/Q3305/W/20/3256570 Bonnyleigh View and Buildings 1 & 3 adjacent, Gypsy Lane, Frome BA11 2NA

- 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 Chant of Paley Prince Developments for a full award of costs against Mendip District Council.
 - The appeal was against the refusal of planning permission for demolition of existing bungalow and industrial units, erection of B1a office and 6no. two-storey dwellings with associated parking and external works.
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Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance 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 applicant submits that the Council failed to defend its reason for refusal and, in making its decision, acted against the technical advice provided by officers.
3. The Council is not obliged to submit an appeal statement and the absence of such is not in itself symptomatic of unreasonable behaviour. It should, however, produce evidence to substantiate its reason for refusal and avoid vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. In this case, notwithstanding a clerical error, the Council was content to rely on the officer report to the Planning Board and the minutes of the meeting at which members opted to refuse planning permission, although I note that the minutes are provided in draft form and by the appellant, not the Council.
5. Nonetheless, the draft minutes are all I have, and they show that noise was at the forefront of the member's debate. The debate saw submissions from the Parish Council, the FRFC and the appellant, and members would have been cognisant of the technical aspects of the appellant's Noise Survey, which identified the potential for significant adverse impacts without appropriate mitigation. This evidence forms a reasonable basis for the Council's decision in regard to noise, and I have agreed with the Council on this issue in any case.
6. Moreover, whilst its members opted not to adhere to the advice of the Environmental Protection Team (EPT), I do not consider the EPT's advice, as set out within the committee report, to be substantively technical in nature.

7. The draft minutes are briefer with regard to the issue of character and appearance. However, they show that a debate was held where members articulated specific concerns in relation to the scheme's design, albeit in short and basic terms. This matter is ultimately subjective in any event. Members concerns were formed into a reason for refusal which is clear, concise and based on appropriate development plan policy.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated and that an award of costs is not justified.

Matthew Jones

INSPECTOR