
Costs Decision

Site visit made on 21 September 2020

by H Porter BA(Hons) MSc Dip IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 November 2020

**Costs application in relation to Appeal Ref: APP/D0121/W/20/3250564
The Bungalow Inn, New Road, Kingdown, Felton, North Somerset
BS40 5TP**

- 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 Wedlake for a full award of costs against North Somerset Council.
 - The appeal was against the refusal of planning permission for demolition of existing public house and replacement with a hotel.
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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. Unreasonable behaviour can be either be substantive or procedural in nature. The substantive matters in this instance relate to the local planning authority's handling and assessment of the application and their reliance on a previous appeal decision to establish reasons for refusing the proposal. It is also contended that matters of drainage should have been dealt with via a condition and on the basis of the details submitted.
4. The local planning authority has, in my judgement, clearly substantiated their reasons for refusal of planning permission and, as will be seen from my decision letter, showed that it had a reasonable basis for its stance. Whether or not the Council referred to landscaping enhancements proposed, I cannot agree that it failed to have regard to government or its own adopted policies or misdirected itself in any reliance on the previous appeal decision. Rather, the application was refused on the basis that the proposed development would give rise to inappropriate development in the Green Belt. I agree.
5. In respect of the matter of drainage and flood risk, the Covid-19 pandemic may well have hindered on-site testing being undertaken. However, notwithstanding the information submitted by the application in relation to drainage, it was not enough to establish with necessary certainty that the proposal would not cause harm in respect of flood risk. It was reasonable for the Council to reach the conclusion they did on this matter, which was substantiated. The uncertainty

over flood risk indicates the matter should not be left to be resolved by the imposition of a condition.

6. All things considered, I am not persuaded that the local planning authority failed to engage proactively with the applicant, failed to properly consider all relevant information, or failed to substantiate its reasons for refusing the planning application.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

H Porter

INSPECTOR