



Costs Decision

Hearing Held on 10 November 2020

Site visit made on 11 November 2020

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2020

Costs application in relation to Appeal Ref: APP/W3330/W/20/3256246 Land at Allshire, Allshire Lane, Brushford, Dulverton EX16 9JG

- 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 Geoffrey Brown for a full award of costs against Somerset West Taunton Council.
 - The hearing was in connection with an appeal against the refusal of planning permission for construction of a key workers dwelling on land adjacent to the existing commercial and agricultural buildings to support the essential and functional needs of the businesses occupying the land.
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Decision

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

The submissions for Mr Geoffrey Brown

2. The initial application was made in writing and the response to the Council was made orally at the hearing. In brief, the appellant is of the view that the Council failed to handle the appeal application in a proactive manner and determined it hastily, without first seeking additional information that may have otherwise avoided the submission of the appeal.

The response by Somerset West and Taunton Council

3. The Council provided their response to the applicant's written application orally at the hearing. Essentially, the Council does not consider that it acted rashly or failed to act proactively. Whilst the Council accepts that it has apportioned differing degrees of weight to considerations put forward by the appellant, it does not consider that unreasonable behaviour has been demonstrated during the processing of the appeal application or the appeal itself.

Reasons

4. The 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.
5. The guidance makes it clear that a local planning authority might be at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal at appeal and/or makes vague generalised assertions about a proposal's impact which are unsupported by objective analysis. Similarly, local planning authorities may be at risk of an award of costs by preventing or delaying development which should clearly have been permitted, having regard to its

- accordance with the development plan, national policy and any other material considerations.
6. The appellant's submission was made on the basis of 'substantial evidence' to prove the needs for the dwelling. The appellant's original submission was deficit of a number of key facts and evidence that set out the justification for the rural worker's dwelling. Having previously been through application and appeal processes for a similar proposal, the level of information necessary to demonstrate an essential need for a rural worker's dwelling should not have comes as a surprise.
 7. It does not appear that the Council accepted the appellant's offer of a discussion about the need for any supplementary evidence. Though the appeal application was subject of an extension of time that provided an additional 10 days for the Council to deliberate its decision, no further evidence was before the Council at this point than in the early stages of the application process.
 8. Whilst I have agreed with the appellant, his case was supplemented by late evidence during the hearing which was ultimately determinative. Though there had been opportunities to include such evidence as part of the original application, even on a commercially confidential basis, or at least as part of the appeal statement of case, it was submitted at a particularly late juncture and was essential for me to reach the conclusion that I did. Whilst the role of the Council is to act proactively, there is also a need for participants to consider the comprehensiveness of their evidence base and the typical processing timescales and pressures to determine applications that also apply.
 9. Consequently, it is not clear to me that the Council has prevented or delayed development that should have been permitted on the basis of the evidence available to it at that time. Therefore, the appeal could not have been avoided and the appellant has not been put to any wasted expense.
 10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and that an award of costs is not justified.

Hollie Nicholls

INSPECTOR