
Costs Decision

Site visit made on 9 March 2021

by John Wilde CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 19 May 2021

Costs application in relation to Appeal Ref: APP/Q3305/W/20/3263714 Land at 357893 149950 Roemead Road, Green Ore, Well, Somerset

- 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 C Smart Agricultural Services Ltd for a full award of costs against Mendip District Council.
 - The appeal was against the refusal of planning permission for the erection of agricultural machinery sales, repairs and distribution centre (mixed use A1/B1/B2/B8).
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Decision

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

Reasons

2. I have considered this application for costs in the light of the Government's Planning Practice Guidance (PPG). This advises that an award of costs against a local planning authority may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. It makes clear that a local planning authority are required to behave reasonably in relation to both of these elements and provides examples of unreasonable behaviour¹.
3. In relation to substantive behaviour they include unreasonably refusing planning applications and promoting vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. In this case the appellant's contention is that the Council have failed to produce evidence to substantiate the reason for refusal. There was only one reason for refusal and it contained several strands. I will consider each in turn.
5. Firstly the reason for refusal states that the proposal would be dominating and overbearing. In the minutes of the Planning Board dated 16 September 2020 there are several references to the size, height, scale and massing of the building being out of character with the surrounding area and the existing buildings. Whilst both myself and the Council's officers have come to a different conclusion, the character and appearance of a proposed development can be a matter of judgement and therefore I do not consider that the Council have

¹ Paragraph: 047 Reference ID: 16-047-20140306 and Paragraph: 049 Reference ID: 16-049-20140306

acted unreasonably in this matter. I also note that the economic benefits of the proposal were discussed at the meeting. The impact upon the landscape and AONB to an extent follows on from the assessment of the dominance of the proposed development and therefore I will not assess these separately.

6. The reason for refusal also refers to external lighting and highway safety. With respect to lighting it was made clear at the Planning Board meeting that *low-level lighting had been stipulated so as to ensure the visual amenity and ecological impacts of external lighting would be minimised* and that all external lighting would be timer controlled to be switched off between 7.00pm and 06.00am. Notwithstanding this, and even after being informed that separate consent would be needed for illuminated advertisements, the Council still included light pollution within its reason for refusal. Furthermore, no evidence was given to explain why the officer advice had been ignored or indeed how the supposed light pollution was likely to manifest itself.
7. In respect of highway safety, it was made clear at the Planning Board meeting that the Highway Authority had not objected to the proposal subject to the imposition of certain conditions, and it was pointed out to members that in light of the Highway Authorities' position it would be difficult to defend this issue at appeal.
8. I acknowledge that local knowledge is a factor in planning decisions and can be an important one. However, in this case no actual evidence, other than anecdotal, has been supplied. Whilst the crossroads was described as a blackspot during the meeting, no evidence of accidents was put forward. The proximity of the proposed access to the crossroads was also a cause for concern, yet the access arrangements had been altered in line with the requirements of the Highway Authority. I understand that members did have genuine concerns regarding highway safety, but notwithstanding this, no significant evidence was produced that outweighed the professional deliberations of the Highway Authority.

Conclusion

9. I have found that in respect of the impact of the proposed development on the character and appearance of the area the Council have not acted unreasonably. However, with regard to the issues of light pollution and highway safety, I consider that the Council have acted unreasonably in that they have not supported these reasons with any substantial evidence.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

Costs Order

11. 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 Mendip District Council shall pay to C Smart Agricultural Services Ltd the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the Authority's reason for refusal relating to light pollution and highway safety, such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The applicant is now invited to submit to Mendip District 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.

John Wilde

INSPECTOR