The Planning Inspectorate

Costs Decision

Site visit made on 12 August 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2021

Costs application in relation to Appeal Ref: APP/D0121/W/21/3268882
P J Hare Ltd, Havyatt Road Trading Estate, Havyatt Road, Wrington BS40 5NL

- 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 Sharon Haskell for a full award of costs against North Somerset Council.
- The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for development of land for light industrial purposes without complying with a condition attached to an existing planning permission.

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. In this case, the Council have failed to make a decision on the application. However, whilst there may have been delays in acknowledging and publicising the appellant's submissions and agreed amendments, the Council has explained that, on the latest submissions, it is still unable to support the proposal. Therefore, a different course of action in this regard would not have avoided the appeal and these inactions have not resulted in wasted expense in the appeal process.

4. Although the Council states that it refuses to be drawn into a boundary dispute, there has been significant discussion between the main parties over the ownership of land required to fulfil the appellants landscaping proposals. Whether or not the land ownership situation was a distraction, on the basis of the evidence, I have found that insufficient landscaping is proposed and the appeal has failed on this basis. Regardless of ownership, then, continued insistence on a wider landscape buffer does not amount to unreasonable behaviour.

5. The Council has suggested that additional information, including a noise survey, should be provided. It is unclear what the outcome of such a survey would be, given that the land of the former railway line was below the industrial building and dwellings, and the Environmental Protection Officer's view that landscaping alone would provide little acoustic screening. However,

whether or not this was an unreasonable request, the appellant has not provided such evidence and so wasted expense in that regard has not been demonstrated.

6. That said, the application does appear to have been clouded by discussion over the use of the site and the Council's suggestion that various other conditions should be considered alongside the applciation applied for. It may well have been possible to determine the application or progress matters more quickly if the Council had focussed solely on the application that was made rather than trying to use the process to establish or regularise other perceived breaches of planning control.

7. However, while this may have led to delay in the application process, I have found that there is still no acceptable alternative to the disputed condition. While frustrating, therefore, the Council's behaviour has not resulted in wasted expense in the appeal process.

8. The Council has previously granted permission for a building on a nearby site that encroached into the railway embankment. However, the Council has explained the differences between that proposal and this appeal site and I saw at the site visit that a substantial amount of landscaping and embankment remained in that location. There is, therefore, no substantive evidence that similar cases have been treated differently.

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated. Accordingly, the application for an award of costs is refused.

M Bale

INSPECTOR