



Costs Decision

Site visit made on 5 May 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2021

Costs application in relation to Appeal Ref: APP/W3330/W/20/3263266 Land North of Huish Lane, Washford TA23 0GD

- 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 The Wyndham Estate for a full award of costs against Somerset West and Taunton Council.
 - The appeal was against the refusal of planning permission for outline planning application (all matters reserved except access) for the erection of 14 x dwellings at land rear of Huish Mews, Washford.
-

Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby directly caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant asserts that the Council used inaccurate and misleading information in respect of the Housing Delivery Test (HDT), incorrectly stated that the Standard Method should be used to establish need, withheld the first appeal decision at Stogursey, failed to apply the correct methodology in calculating its housing land supply and failed to acknowledge that Policy SC1 is inconsistent with the Framework and out-of-date regardless of the Council's housing supply position.
4. The Council's use of the Standard Method runs counter to the clear policy expression within Paragraph 74 of the Framework which informs that, in this case, the housing requirements of the WSLP should be used at this point in time. However, the Council's statement also sets out its position that there is a five-year supply against the WSLP requirement. As such, it seems to me that the erroneous use of the Standard Method was somewhat of a side issue quickly dismissed by the applicant without substantive cost.
5. In its statement, the Council gave a figure of 107% for its HDT measurement, which is the correct figure given in the 2020 HDT results document, which published the Council's results at the reorganised authority level. Contrary to this, data from the Council's monitoring paints a different picture of housing delivery. However, to criticise the Council's conduct in its presentation of data with regard to the HDT results and its methodology for assessing its extent of supply against the WSLP requirement amounts to a rehearsing of the planning

arguments between the parties in my opinion. These are arguments more suitably addressed within the appeal itself, which they were.

6. The Stogursey decision arose after the deadline for the Council's statement. However, the Procedural Guide: Planning appeals – England states that a Council must alert the Inspectorate if it becomes aware of a relevant appeal decision. The Council's reasons why this did not happen in this case are not credible because all officers who determine applications for housing should be made aware of a decision which reaches findings in relation to housing supply.
7. Yet, the applicant provided comments about the Stogursey decision that I consider would likely have been written if the Council had been the party to disclose it. Keeping an eye out for relevant appeal decisions during an appeal strikes me as best practice, particularly where housing supply is an area of disagreement. I would anticipate an agent to undertake such searches as a matter of course. For these reasons, I do not consider that the Council's failure to disclose the Stogursey decision caused unnecessary expense.
8. With regard to the consistency of Policy SC1 with the Framework, and notwithstanding the issues of housing supply, this is a matter of planning judgment. Indeed, the Inspector in the Stogursey decision found the content of the policy to be consistent with the Framework. Whilst I note that there was extensive dialogue between the parties before the scheme went to planning committee, there is no explicit evidence before me of the applicant making a robust case about the inconsistency of the policy before the appeal. Instead, the Design and Access Statement identifies benefits of the scheme and concludes that it accords with Policy SC1. The Planning Committee was therefore reasonably entitled to rely on the policy in its decision and in reaching the opposite conclusion as reflected in the Council's reason for refusal.
9. Drawing my findings together, much of this application relates to matters which are within the arena of planning judgment. Where I do agree that the Council acted unreasonably, in its failure to disclose the Stogursey decision and its mistaken use of the Standard Method, I see no compelling evidence that this led to tangible costs in the appeal process or costs that would not have come to pass anyway.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been clearly demonstrated. An award of costs is not justified.

Matthew Jones

INSPECTOR