



Costs Decision

Site Visit made on 7 June 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th August 2022

Costs application in relation Appeal Ref: APP/D0121/W/22/3292823 Land to the South of Currells Lane, Felton, BS40 9XF

- The appeal is made under section 78 of 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 North Somerset Council for a full award of costs against Ms Claire Nightingale.
 - The appeal was against the refusal of the Council to grant permission in principle for between 2 and 5 dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) states that irrespective of the outcome of an appeal, costs may only 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 associated appeal process.
3. The Council considers that the appellant acted unreasonably in the submission of the appeal. which, according to them, followed an application which they had advised would stand limited chance of success. The evidence before me supports this and I can see that the appellant was fully aware of the Council's objections. The significant concerns in respect of the Green Belt location were highlighted with reference to national and local planning policy.
4. Whilst the appellant was offered the opportunity to withdraw, they proceeded with the appeal scheme. However, as noted in my appeal decision, whether the appeal site could be considered as infill is dependent on an assessment of the situation on the ground. As such, whilst the Council considers that similar appeal decisions exist, each site is assessed on its own context. Additionally, the appellant provided an appeal decision which they considered reflected their view of infill.
5. Whilst it is evident from the main decision that I have disagreed with the appellant, their submission nonetheless sets out an assessment of the proposed development against both local and national policy which it was their prerogative to do through the submission of a planning application and subsequent appeal.
6. Accordingly, I do not find that the appellant behaved unreasonably in their appealing the Council's decision. I have found that the appellant had reasonable concerns about the Council's decision which justified their appeal submission.

Conclusion

7. Unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Tamsin Law

INSPECTOR