



Costs Decision

Site Visit made on 4 July 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal Ref: APP/Y3940/W/22/3292632

38 Stone Lane, Lydiard Millicent, SN5 3LD

- 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 Mr Michael Kerslake for a full award of costs against the Wiltshire Council.
 - The appeal was against the refusal of the Council to grant planning permission the change of use of section of agricultural land to residential.
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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 same guidance makes it clear that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Failing to produce evidence to substantiate a reason for refusal on appeal, making vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, or refusing permission on a planning ground capable of being conditioned. The submission also claims that the proposal complied with the development plan and should have been permitted and the necessary appeal has caused the appellant delay and unnecessary expense.
4. Whilst I appreciate the outcome of the application will have been a disappointment to the applicants, the Council were not unreasonable in coming to that decision from the information they had available to them. The concerns raised in the reason for refusal are apparent in the Committee Minutes which adequately sets out how the proposal, in the Council's opinion, would conflict with relevant adopted planning policies. Accordingly, I am satisfied that the Council's reasoning was credible and it was entitled to reach the decision it did.
5. I find nothing to suggest that a decision was reached other than on the basis of the merits of the proposal, as submitted by the applicant. I also find no evidence that the appellant incurred any additional expense as a result of this.
6. Accordingly, I do not find that the Council failed to properly consider the merits of the scheme and therefore the appeal could not have been avoided. I have

found that the Council had reasonable concerns about the impact of the proposal which justified its decision.

Conclusion

7. I therefore conclude that for the reasons set out above, 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