
Costs Decision

Site visit made on 13 June 2023

by C Rose BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 August 2023

Costs application in relation to Appeal Ref: APP/W3330/W/22/3307369 Land at Sweethay, Trull, Taunton TA3 7PB

- 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 Mr A Armerod for a full award of costs against Somerset Council.
 - The appeal was against the failure to give notice within the prescribed period of a decision on an application for planning permission for a change of use of land for the siting of 10 bell tents and the erection of a service building along with car parking and landscaping.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. The applicant is applying for a full award of costs. He considers that the Council acted unreasonably by preventing and delaying the grant of planning permission, making a vague case unsupported by evidence, failing to correctly apply planning policy, acting contrary to established case law, not determining cases in a similar manner and failing to produce evidence to substantiate each reason for refusal. The applicant refers to the lack of engagement by the landscape officer and determining the planning application contrary to pre-application advice as examples of unreasonable behaviour.
4. In response, the Council disagree that they have acted unreasonably stating that they informed the applicant of the likely refusal of planning permission at an early stage, that pre-application advice is non-binding and that the views of the landscape officer were made available. The Council state that they considered the fall-back position and determined the application in accordance with development plan policies. In addition, the Council raise concerns regarding the applicant breaking off communication and attempting to submit further statements during the appeal.
5. From the evidence before me, the effect of the proposal on the character and appearance of the area and whether it is an appropriate location were of great concern to a large number of local residents. This generated a considerable number of objection letters for the council to consider.

6. Matters concerning the principle of development in the proposed location, and the effect on the character and appearance of the area were detailed in the Council's report and statement of case and referenced against relevant development plan policies. Although I have found in the applicant's favour in relation to one of the main issues, it was not unreasonable for the Council to reach a different view on this matter. The Council's case is clear, supported by sufficient evidence and included consideration and rebuttal of the applicant's fallback argument.
7. As there had been agreement in place between the parties to seek to resolve matters, to extend the timescale for determination, and the Council were in the process of determining the application when the appeal was submitted, I do not find that the Council acted unreasonably by delaying the determination of the application. Furthermore, the grant of planning permission was not delayed in this case as it will be seen from my appeal decision that I have found harm and planning permission is refused.
8. It follows from the above, that I find the Council adequately explained the differences to other cases and produced sufficient evidence to substantiate each reason for refusal. The landscape officers' comments were available for the applicant to address, and the pre-application advice was non-binding.
9. The appeal provided an opportunity for the applicant to test the position and explain their case. In my view the Council provided reasons for its concerns which justified its position. It was not unreasonable for the Council to reach a different view in relation to whether the location of the proposal was appropriate. As a result, the Council did not unreasonably apply planning policy, and they did not act contrary to establish case law.
10. In light of the above, I do not find that the Council acted unreasonably and made an informed assessment of the proposal adequately justifying their concerns.
11. Accordingly, I find that unreasonable behaviour in procedural or substantive terms resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
12. The application for an award of costs must therefore fail.

C Rose

INSPECTOR