



Costs Decision

Hearing held on 19 September 2023

Site visit made on 19 September 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2023

Costs application in relation to Appeal Ref: APP/Q3305/W/23/3323827 Land accessed of Bindon Lane, Witham Friary, Frome

- 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 and Mrs Pritchard for a full award of costs against Somerset Council.
 - The appeal was against the refusal to grant planning permission for the change of use from Agricultural to Equestrian for the relocation of an existing Riding School business. Construction of Menage, 2 'American barns' associated parking, paths, muck heap & hard standing. Also installation of a mobile home to be occupied by the owners in association with the business.
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Decision

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

The submissions for Mr & Mrs Pritchard

2. The costs application was submitted in writing.

The response by Somerset Council

3. The response was made in writing.

Reasons

4. Parties in planning appeals normally meet their own expenses. However, 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.
 5. The PPG sets out that councils are at risk of an award of costs where they, amongst other matters:
 - prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;
 - fail to produce evidence to substantiate each reason for refusal on appeal;
 - make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and
 - not determine similar cases in a consistent manner.
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6. The applicant states that the appeal was unnecessary as the proposal complies with the development plan and was recommended for approval by the Council Case Officer. Furthermore, it is stated that the Council's Planning Board failed to carry out a planning balance correctly or fairly, or applied planning policies correctly and reasons for refusal are unsubstantiated.
7. Although officer recommendations were to grant permission in this case, local planning authorities are not bound to accept the recommendations of their officers and therefore councillors were entitled to reach an alternative view on the effects of the proposal.
8. Reasons for refusal are clearly laid out and refer to relevant development plan policies. The reasons for refusal are a matter of judgement, whilst it is also clear from the second reason that the Council felt that there was insufficient evidence or information to demonstrate the essential need for permanent occupation of the site. Whilst I appreciate that the outcome of the planning application will have been a disappointment to the appellant, the local planning authority were not unreasonable in coming to that decision. Indeed, I note further information was supplied with the appeal, and notwithstanding this information, following consideration of the evidence on its merits alone, I have dismissed the appeal. As such, it follows that I am satisfied that the Council has shown that it was able to substantiate its reasons for refusal. No unreasonable behaviour has been demonstrated in this regard.
9. The PPG states that where a local planning authority has refused a planning application for a proposal that is not in accordance with development plan policy, and no material considerations indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application. I consider that these circumstances arise in this case and therefore that the Council did not prevent or delay development which should clearly be permitted.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

S Harrington

INSPECTOR