



Costs Decision

Site visit made on 24 November 2023

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2023

Costs application in relation to Appeal Ref: APP/D0121/W/23/3318875 10 Dial Lane, Felton, North Somerset BS40 9YD

- 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 North Somerset Council for a full award of costs against Mrs Sarah Wilkinson.
 - The appeal was against the refusal of planning permission for proposed change of use of land to use for the siting of 2no. mobile pod units to provide overnight visitor accommodation and associated soft/hard landscaping works.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. 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.
3. The PPG further identifies that an award of costs against appellants may be made on a substantive basis, relating to the planning merits of the appeal. Examples of this include where the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where the Secretary of State or an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period.
4. An award of costs on substantive grounds can also include where the development is clearly not in accordance with the development plan and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
5. The appeal follows a relatively recent appeal (ref: APP/D0121/W/18/3216683) in North Somerset for the development of tourism accommodation, of a similar scale and nature, within the Green Belt at Upton Lane, Dundry. That appeal was dismissed on the basis that the proposal was inappropriate development in the Green Belt and that very special circumstances did not exist to justify the development. Given the findings of that previous appeal and the contextual similarities with the current proposal (which were outlined in detail within the case officer's report), I consider that there was no reasonable prospect of the appeal succeeding.

6. Furthermore, the current application was refused on several grounds, including the potential impacts on protected species and a lack of evidence to justify the proposed agricultural diversification. The reasons for refusal as set out in the decision notice are complete, precise, and specific, while the case officer's report provides further detailed reasoning as to why the decision was reached.
7. Although the appellant has provided some personal opinion and several vague assertions, no detailed evidence has been provided to challenge the Council's reasons for refusal. For example, no robust reasons have been advanced as to why the proposal should succeed given the conflict with local and national Green Belt policy, particularly considering the findings of the previous appeal at Upton Lane, Dundry. Similarly, no details have been provided of the existing rural enterprise, or financial information, to demonstrate the supposed need for diversification. Nor have any ecological surveys been provided to address concerns related to protected species.
8. I appreciate that the appellant is not a planning professional, however, she was advised by an agent during the course of the original planning application. The Council has also identified that the agent on the original application encouraged the appellant not to appeal the Council's decision. Whilst I cannot verify this, the appeal was progressed by the appellant without the original agent's involvement. The Council also highlighted that it advised the appellant against appealing the decision and notified her of its intention to apply for costs should the appeal proceed.
9. Consequently, whilst the appellant may not have a technical understanding of the planning system she did receive advice, and I understand that the risks of the costs procedure were raised. Having regard to the relatively recent appeal decision of a very similar nature and the lack of evidence submitted to support the appellant's views I find there was no reasonable prospect of the appeal succeeding.
10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mrs Sarah Wilkinson shall pay to North Somerset Council, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Mrs Sarah Wilkinson, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Lewis Condé

INSPECTOR