



## Costs Decision

Site visit made on 30 April 2024

**by Alison Fish BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 August 2024**

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### **Costs application in relation to Appeal Ref: APP/E3335/W/23/3330798 Land at 345552 136293, Main Street, Walton, Street, Somerset**

- 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 Frank Rizzuti for a full award of costs against Somerset Council.
  - The appeal was against the refusal of planning permission for development described on the application form as 'new construction of 6 dwellings'.
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### **Decision**

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

### **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 applicant's case for a full award of costs is that the Council in refusing the planning application made vague and inaccurate assertions about the proposal's impact, acted contrary to or not followed well-established case law and failed to correctly apply the policies of the development plan, Framework<sup>1</sup> and PPG. In doing so, the Council unreasonably withheld planning permission for development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The Planning Committee refused the planning application contrary to officer advice. Whilst they are not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
5. With regards to the Council's spatial strategy, the Council identified that the proposal for additional housing in a countryside location was contrary to the spatial strategy. I also found this to be the case.
6. The Council's case in respect of highway safety relies to a large extent on the anecdotal evidence of residents regarding traffic speed and accidents. This is not in itself unreasonable. Indeed, the appellants own evidence points to the 85<sup>th</sup> percentile being above the speed limit. Whilst I do not share the view of the Council in respect of their second reason for refusal, I am satisfied that

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<sup>1</sup> National Planning Policy Framework

they have articulated their concerns in the appeal submissions and that to conclude as they did, was not unreasonable.

7. The Council also clearly engaged Paragraph 11. d) of the Framework and assessed whether the adverse impacts they had identified significantly and demonstrably outweighed the harm they had identified in terms of conflict with the spatial strategy and highway safety. Their submissions clearly indicate what weight was given to each benefit and the harms they had identified. I am satisfied that they therefore correctly applied the policies in the development plan, Framework and PPG.
8. Notwithstanding that I have found in favour of the appellant, given that the weight to be attached to a particular material consideration is a matter for the decision maker's discretion, the Council were not unreasonable to conclude that the adverse impacts of the appeal proposal significantly and demonstrably outweighed the benefits when assessed against the policies in the Framework taken as a whole.
9. 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 of costs is therefore not justified.

*Alison Fish*

INSPECTOR