



Costs Decision

Site visit made on 15 October 2024

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2024

**Costs application in relation to Appeal Ref: APP/D0121/W/24/3343001
Land next to Land Yeo and Tyntesfield Springs, Bristol Road, Wraxall
BS48 1UD**

- 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 Dr Hugh Pratt.
 - The appeal was against the refusal of planning permission for installation of a Novel hydro turbine and erection of a dwelling.
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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 Council's claim for costs relies on a recent appeal decision in respect of a very similar development on the same site where an Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period and therefore the appeal has been lodged without a reasonable prospect of a different outcome being reached.
4. The appellant considers that the world has changed since 2018. However, the latest appeal decision¹ is more recent and was determined in 2022. The previously determined scheme itself was very similar to the proposal before me, with the only change being an alteration of the overall height of the proposed dwelling. The Council have powers to decline an identical application, however, it is clear that the minor change in height means that the application is not identical.
5. The 2022 appeal decision found that the scheme would comprise inappropriate development within the Green Belt, would not preserve the openness of the Green Belt, would harm the character and appearance of the area, would not accord with the Council's development plan strategy and would not comply with the circumstances outlined in Paragraph 84 of the Framework. The overall balance found that very special circumstances did not exist, and the appeal was dismissed.

¹ APP/D0121/W/21/3269562

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6. The Council have refused the proposal before me for the same reasons with the inclusion of inadequate information being provided to assess the impacts on the North Somerset and Mendip Bats Special Area of Conservation (SAC) and protected species including bats and biodiversity.
 7. In regard to the appeal proposal before me, it is clear that the minor alteration in the proposals overall height would not address the issues raised in the 2022 appeal decision and in this regard I have found that the previous reasons for dismissing the appeal remain relevant.
 8. I acknowledge that Green Belt decisions require a balance to be struck between harm and other considerations in order to determine whether very special circumstances exist. However, the appellant has relied on many of the same comments in support and appeal decisions that were addressed by previous inspectors in their appeal decisions.
 9. The appellant states that the change in energy prices and what they consider to be a dramatic change of the local area are material changes since the previous appeal. The horizontal vortex turbine attracts some weight in favour of the appeal, however, like with previous appeal decisions, is tempered by the significant harm. The change in energy prices does not address this significant harm. The appeal site itself remains largely unchanged from the 2022 appeal decision and while there has been some development locally, these examples are not comparable to the appeal scheme and have not affected the overall planning balance.
 10. In regard to the Council's fourth reason for refusal, in regard to the biodiversity concerns I have found that these could be addressed by a suitably worded planning condition and as I dismissed the appeal for other reasons, I have not taken the potential impacts on the SAC further. It would therefore not be reasonable to award costs for defending this particular reason for refusal.
 11. The appellant self-identifies with the poor, marginalised and excluded and consider that he can meet the legal definition of a gypsy. While the Council disagree, I have no evidence before me to suggest that the appellant does not meet the legal definition of a gypsy. However, the relevance to this costs application is limited and I have given little weight to the fallback position, for the reasons given in my appeal decision.
 12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated on all grounds other than that relating to biodiversity and the effect on the SAC and that a partial award of costs is justified.

Costs Order

13. 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 Dr Hugh Pratt shall pay to North Somerset Council, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in defending the first, second and third of the Council's reasons for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.

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14. The Council is now invited to submit to Dr Hugh Pratt, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

D Wilson

INSPECTOR