



Costs Decision

Site visit made on 29 November 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2025

Costs application in relation to Appeal Ref: APP/R3325/W/24/3344122

Land north of Jarman Hill, Barton St David, Somerset TA11 6DA

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972 (as amended), section 250(5).
- The application is made by Mr S Reynolds (SAR Management Consultancy) for a full award of costs against Somerset Council.
- The appeal was against the grant subject to conditions of planning permission for change of use of land from agriculture to equestrian use (part private, part commercial), creation of a stable building containing 7 stables, 3 private, 4 full livery, erection of a horse walker, hay barn, menage, sand pen and associated development (Retrospective).

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 applicant lodged an appeal against the conditions imposed on planning permission Ref 23/00608/FUL, alleging that several of the conditions did not comply with the 6 tests found in the National Planning Policy Framework (the Framework). In this costs application, the applicant argues that the Council acted unreasonably in imposing the disputed conditions, resulting in unnecessary and wastes expense in terms of preparing an appeal statement and associated supporting documentation.
4. Paragraph 57 of the Framework requires that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. In this regard, as explained in detail in the associated appeal decision, although condition No 15 was found to be necessary and reasonable, conditions Nos 4, 10, 11, and 13, were found not to be necessary, and modifications were required to condition Nos 9 and 17 to remove unnecessary requirements.
5. Apart from condition No 15 and condition No 16 (which was retained in preference to condition No 13 with a minor modification to include reference to bats), the disputed conditions were therefore found to be in conflict with paragraph 57 of the Framework. Such a scenario is given in the PPG as an example of unreasonable behaviour with respect to the substance of the matter under appeal¹. I therefore

¹ Paragraph 16-049-20140306

consider that the Council's behaviour was unreasonable in imposing conditions Nos 4, 9, 10, 11, 13, and 17, as drafted on the grant of planning permission. This unreasonable behaviour resulted in unnecessary and wasted expense in relation to the applicant submitting an appeal against the disputed conditions.

6. An applicant for planning permission has a legal right to appeal against a planning permission granted subject to conditions to which they object. There is no requirement for an applicant to negotiate with the Council before / after exercising this right, nor for the applicant to submit an application to the Council under s73 of the Town and Country Planning Act 1990 (as amended). In any event, this costs decision is based upon the circumstances as they occurred in fact, and the possibility that some / all of the expenses incurred by the applicant might have been avoided if alternative actions were taken does not change these circumstances. These are not matters which alter my findings above.

Conclusion

7. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of conditions Nos 4, 9, 10, 11, 13, and 17 of planning permission Ref 23/00608/FUL, and a partial award of costs is therefore warranted.

Costs Order

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 (as amended) 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 Somerset Council shall pay to Mr S Reynolds (SAR Management Consultancy), the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in preparing an appeal statement and associated supporting documentation in relation to conditions Nos 4, 9, 10, 11, 13, and 17 of planning permission Ref 23/00608/FUL; such costs to be assessed in the Senior Courts Costs Office if not agreed.

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

Alexander O'Doherty

INSPECTOR