Planning Inspectorate

Costs Decision

Site visit made on 12 February 2025

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2025

Costs application in relation to Appeal Ref: APP/E3335/W/24/3348456
Land at Compton Nursery, New Road, Compton Pauncefoot, Yeovil, Somerset BA22 7EN

- 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 Hopkins Estates Ltd for a full award of costs against Somerset Council.
- The appeal was against the refusal of planning permission for outline planning application with all matters reserved except for access for two self-build/custom build dwellings and ancillary works.

Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only 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 makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

4. In this case, the appellant has referred to a decision made by a fellow Inspector. In their view, the approach taken by the Inspector in his consideration of the issues, has similarities with the appeal proposal and therefore supports their case and indicates that the Council should have come to a different decision on the appeal application. As such, in the view of the appellant, the Council acted unreasonably which has led to them incurring unnecessary costs in submitting an appeal.

5. The planning system requires applications for development proposals to be determined in accordance with the development plan, unless material considerations indicate otherwise. Other decisions, whether those taken by the Council or the Secretary of State are capable of being taken into account, but it is clear that they are not the starting point for making decisions and it is a requirement upon the decision maker to ensure that each application is determined on its merits.

6. In response to the issuing of the Inspector's decision, the appellant wrote to the Council on 3 July 2024, asking officers to reconsider their position on the appeal application. In this respect, I note that the Council determined the appeal application on the 19 March 2024, with the decision of the Inspector being taken on 2 July 2024. It is therefore clear that the Inspector's decision was taken some time after the Council had determined the appeal application and as such, there was no possibility that the Council could alter the decision.

7. I understand the position of the appellant given the lack of response to their submission, however by then, the appeal application had already been determined. The only recourse open to the appellant to alter the decision on the appeal application was to pursue an appeal. Alternatively, the appellant could have chosen to re-submit a revised application, or sought formal pre-application advice, presenting the Inspector's decision in support of their case. There is no evidence to suggest that the appellant pursued either of these routes. Instead, they chose to lodge the appeal.

8. On this basis, I cannot conclude that the behaviour of the Council amounts to unreasonable behaviour. Whilst the lack of response from the Council to the appellant's subsequent submission may be a source of disappointment to the appellant, I do not consider this to meet the test of unreasonable behaviour as set out in the NPPG.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Adrian Hunter

INSPECTOR