
Costs Decision

Site visit made on 10 December 2024

by **K Reeves BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 May 2025

Costs application in relation to Appeal Ref: APP/D0121/W/24/3347419

North Hill Farm, East Dundry Lane, Dundry, North Somerset BS41 8NJ

- 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 Mrs Rosa Nolan for a full award of costs against North Somerset Council.
 - The appeal was against the refusal of planning permission for demolition of existing agricultural barn, erection of residential dwelling, extension of residential curtilage and ancillary works.
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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 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 costs is threefold. Firstly, the applicant asserts that the permission for the proposal should clearly have been given and the Council refusing the application unnecessarily prevented or delayed the development. It is also argued that the Council did not sufficiently cooperate with the applicant and if it had then the appeal could have been avoided altogether or the number of reasons for refusal reduced. Lastly, the applicant states that planning conditions could have been used to deal with matters that formed the reasons for refusal.
4. The Council had regard to the 'fallback' position put forward by the applicant but did not apply the weight to it that the applicant felt should have been applied. However, the Council applied the level of weight that it considered to be appropriate when having regard to an appeal decision that was referenced in the officer report. I note that the applicant has referenced appeal decisions where significant weight was applied to a 'fallback' position, but this is a matter that needs to be considered on a case-by-case basis. The Council did not act unreasonably by applying the level of weight that it considered to be appropriate.
5. The applicant considers that the proposal would improve the openness of the site, be in keeping with the character of the area and have a sympathetic design. However, the Council reached the opposite conclusion and there is essentially a difference in opinion between the main parties. Again, it is not unreasonable for the Council to have regard to an applicant's case for approval but reach the decision that the proposal would conflict with certain policies of the development plan.

6. There was a planning balance undertaken as part of the Council's assessment of the application as evidenced in the officer report. In the planning balance, the Council took into account various other considerations but came to the conclusion that these would not outweigh the harm caused by the proposed development. The Council did not include the energy efficiency of the proposal but that single material consideration would not have overcome the issues with the proposal and therefore not avoided the refusal of the application.
7. I acknowledge that the Council did not seem to have an open dialogue with the applicant. Whilst this is unfortunate as it could have resulted in amendments to the scheme such as reducing the red line area of the proposal, it has not been sufficiently substantiated that the amendments would have overcome some or all of the concerns raised in the reasons for refusal. It is therefore questionable that the amendments would have reduced the reasons for refusal or avoided the appeal altogether. As such, despite the Council's lack of cooperation being unreasonable, it has not been sufficiently demonstrated that that behaviour resulted in unnecessary or wasted expense.
8. The Council raised concerns with the proposal's external materials. A planning condition could have been used to ensure that those materials are acceptable. However, the materials were just one element of the Council's concern about the effect on the character and appearance of the area. As such, the refusal reason relating to that specific matter could not have been avoided through the imposing of a planning condition.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

K Reeves

INSPECTOR