
Costs Decision

Site visit made on 27 February 2025

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2025

Costs application in relation to Appeal Ref: APP/F0114/W/24/3357053

Land Adjoining Orchid Way, Writhlington, Radstock BA3 3FR

- 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 The Ammerdown Estate for a full award of costs against Bath and North East Somerset Council.
 - The appeal was against the refusal of planning permission for the creation of new vehicular access adjoining Orchid Way.
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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 PPG indicates that a Local Planning Authority's handling of a planning application prior to the appeal could give rise to an award of costs where such handling amounts to unreasonable behaviour.
4. The PPG also includes examples of the types of behaviour that may give rise to a substantive award of costs against a Local Planning Authority. Amongst other matters, these can include, preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal; vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis; and not determining similar cases in a consistent manner.
5. The evidence before me in the appeal indicates that the Council refused the application based on the advice given from highways department. Whilst the planning officer would not have been bound by this recommendation this is a clear material consideration in their determination of the application.
6. Whilst I have come to a different conclusion to the Council with regards to highway safety, I find that the reasons for refusing planning permission as contained within the officer report, decision notice and as amplified within the Council's statement of case and proof of evidence did provide clear reasons to demonstrate why the proposal was determined to be unacceptable on this ground. The concerns regarding nature of the existing highway, its shared use, cul-de-sac design, and

management, were all clearly articulated within the officer report and decision notice.

7. I have had regard to the applicants assertions that the Council have dealt with the current scheme differently to the development of Orchid Way. The fact that the development was considered acceptable previously is not necessarily a reason that an additional access to more dwellings should now be considered acceptable. Whilst matters regarding the adoptability of the highway has been raised, the existing highway has not been put forward for adoption to understand fully whether it would fully comply with these standards. In any event, the development of the existing development at Orchid Way would have been determined on the base of the housing numbers before them and not on future development. I do not therefore consider that the Council have dealt with similar cases inconsistently.
8. Policy ST7 of the Bath and North East Somerset Local Plan Partial Update Placemaking Plan (2023) (LP) establishes that development should ensure that highway safety is not prejudiced. Paragraphs 115 of the National Planning Policy Framework seek to ensure that developments have a safe and suitable access for all users. It was clear from the officer report and decision notice the concerns that the Council had in relation to highway safety and relevant local and national planning policies. For these reasons, whilst I have not agreed with the Council on the main issue, I do not find that the Council provided vague, generalised or inaccurate assertions about the proposal's impact, prevented or delayed development which should clearly have been permitted, or determined similar cases in an inconsistent way.
9. In conclusion of the above, I find that the unreasonable behaviour resulting in unnecessary or wasted expense, as described within the PPG, has not been demonstrated in this case and that, therefore, an award of costs is not justified.

Tamsin Law

INSPECTOR