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## Costs Decision

Site visit made on 29 June 2016

**by Andy Harwood CMS MSc MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 26 July 2016**

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### **Costs application in relation to Appeal Ref: APP/R3325/W/16/3144731 Long Hazel Park, High Street, Sparkford, Yeovil BA22 7JH**

- 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 Mr and Mrs A Walton for a full award of costs against South Somerset District Council.
  - The appeal was against the refusal of the use of land for the siting of 21 permanently occupied residential mobile homes.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. 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. The applicant's case is based upon procedural and substantive issues.
  3. In terms of procedure, the applicants consider that the planning application should have been dealt with by the Council's Area East Committee rather than under powers delegated to their planning officers. The Ward Member's request for a committee decision is an internal procedural matter that is not for me to rule on. The PPG confirms that costs cannot be claimed for the period during the determination of a planning application. However the PPG also clarifies that all parties are expected to behave reasonably throughout the planning process. Although the officer's delegated report does not refer to the split decision of Sparkford Parish Council their comments were extensively reported. I do not have sufficient evidence to indicate that had the Area East Committee been given the opportunity to determine the planning application that it would have been approved, thereby doing away with the need for this appeal.
  4. There were also substantive issues raised by the applicants. These relate to how the judgements were made in this case and also drawing attention to other planning decisions for housing in Sparkford.
  5. The business case was supported by the Council's economic development officer subject to the retention of some holiday lodges. However, in the appeal decision I have agreed with some of the Council's concerns regarding the economic issues. Just because the Council's planning officer does not have a particular qualification does not prevent them from making a reasonable analysis of the information provided.
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6. The Council has expressed concerns that the growth of the settlement would be unsustainable due to the cumulative impact of housing not being commensurate with the scale and character of this rural settlement. Since the refusal of the current proposal other decisions to approve more housing have been made by the Council. As I have stated within the appeal decision, the Council has not adequately explained why the growth of residential units within the settlement by potentially 42% would be problematic in policy terms nor in terms of the impacts upon services and facilities. In terms of 'character' the Council accepts that there would be no adverse visual impacts. Comparisons to higher order settlements within the South Somerset Local Plan (2006-2028), adopted March 2015 (LP) did not satisfactorily explain why the growth of this settlement is not acceptable. The assertion about the growth of the village being harmful is vague and the case was not adequately substantiated.
7. The Council has accepted that they cannot demonstrate a 5 year supply of deliverable housing sites and it is helpful to all involved in the process that an issue such as this is agreed at an early stage. They also were fully aware of the implications for this in terms of the National Planning Policy Framework and in particular paragraph 14 which outlines the presumption in favour of sustainable development.
8. A balancing exercise was undertaken within the overall conclusion of the officer report. I agree with Council's view that even in these circumstances, the LP cannot be ignored. It is part of the development plan. It is also for the decision maker to assess the degree of weight to attribute to relevant factors in this balancing exercise. However, the Council's position that the scale and location of the development would cause adverse impacts sufficient to significantly and demonstrably outweigh other factors was difficult to understand due to the vagueness of the arguments presented. This was a decisive matter within the balancing exercise.
9. The applicants employed professional consultants to prepare and submit their case for the appeal as well as this costs application. These costs have been incurred as a direct result of the way in which the Council made its decision.
10. I therefore consider that unreasonable behaviour resulting in the unnecessary and wasted costs as described in the PPG, has been demonstrated and that a full award of costs is justified.

### **Costs Order**

11. 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 South Somerset District Council shall pay to Mr and Mrs A Walton, the costs of the appeal proceedings described in the heading of this decision such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to South Somerset District 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.

*Andy Harwood*

INSPECTOR