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## Costs Decision

Site visit made on 12 April 2017

by **David Walker MA MRTPI**

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

Decision date: 5<sup>th</sup> June 2017

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### **Costs application in relation to Appeal Ref: APP/R3325/W/16/3164977 Gainsborough Arms, 74 Gainsborough Road, Milborne Port, Somerset DT9 5BB**

- 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 NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited for a full award of costs against South Somerset District Council.
  - The appeal was against the refusal of planning permission for demolition of existing class A4 public house and redevelopment of site to provide class A1 convenience store including ATM with dedicated external servicing, refuse and plant area, associated car parking, access and landscaping (as appropriate).
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#### **Decision**

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

#### **Reasons**

2. The Planning Practice Guidance 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. Policy EP15 of the Local Plan requires that new community uses are suitable for the area within which they fall. It is a more localised approach than the broad statement of national policy set out within the Framework. The Local Plan is recently adopted and there is no suggestion that it is inconsistent with the Framework.
  4. Under the Local Plan all community facilities are not equal as some may better reflect local needs than others. The Council was therefore entitled to consider whether the proposal amounted to a suitable use for the village, notwithstanding that it was a community facility under paragraph 70 of the Framework.
  5. Furthermore, it is clear from the supporting text to Policy EP15 that the suitability of new uses is to be gauged in consultation with the community. In this respect the many representations submitted both at the time of the application and during the appeal have indicated a great deal of interest in the retention of the public house. Nonetheless, the test period set down in Policy EP15 was not carried out.
  6. It is evident from the officer's report that the Council had given consideration to the submitted viability reports and was not satisfied. It will be apparent
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from my decision that I have agreed with its assessment. Confronted with some uncertainty over the alternative provision, and clear evidence of demand, the test period was not optional but a fundamental means of assessing the most suitable uses for the appeal site.

7. In the absence of a suitable test period it cannot reasonably be found that the loss of the public house would not be harmful to village life under Policy EP15. I do not find therefore that the Council behaved unreasonably and as a result no award of costs is justified.

*David Walker*

INSPECTOR