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## Costs Decision

Site visit made on 14 August 2014

**by Martin Andrews BSc(Econ) MA(Planning) DipTP & DipTP(Dist) MRTPI**

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

**Decision date: 9 September 2014**

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### **Costs application in relation to Appeal Ref: APP/R3325/A/14/2220744 Land adjoining Hearn Lane, Galhampton, Yeovil, Somerset BA22 7AN**

- 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 J Levett for a full award of costs against South Somerset District Council.
  - The appeal was made against the refusal of outline planning permission for the formation of a new vehicular and pedestrian access and the erection of a detached dwelling with garage.
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### **Decision**

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

### **Reasons**

2. National Planning Practice Guidance ('the Guidance') published in March 2014 advises that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
  3. Members were in receipt of a written officers' report recommending approval of the appeal application. A further officer report, including an update on the emerging Local Plan, was read to the committee. As regards the first reason for refusal, the thrust of this advice was that in assessing the sustainability credentials of the location of the appeal site, significant weight should be given to Government policy in the National Planning Policy Framework and to the criteria-based emerging Local Plan Policy SS2. This advice notwithstanding, in respect of the first reason for refusal Members decided to adhere to Policy ST3 of the 2006 Local Plan.
  4. In respect of the second refusal reason, whilst it is legitimate for Members to have general concerns in respect of the capacity and the safety of the local road network in relation to development proposals, the evidence in this application was that an access can be provided to the site without detriment to highway safety. There was no evidence or officer support for the contrary view that the access itself and / or the sections of Hearn Lane leading to the site would be unable to cope with the additional traffic generated by an additional dwelling, either in terms of capacity or maintaining highway safety.
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5. As a result, in my view the Council has demonstrated several examples of unreasonable behaviour by a Local Planning Authority as indicated in the Guidance. These include delaying development which clearly should have been permitted having regard to planning policy and other material considerations; failing to produce evidence to substantiate each reason for refusal in this appeal, and making vague and generalised assertions about the proposal's impact, which are unsupported by any objective analysis.
6. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the Guidance, has been demonstrated and that a full award of costs is justified.

**Costs Order**

7. 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 Mrs J Levett, the costs of the appeal proceedings described in the heading of this decision.
8. 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

*Martin Andrews*

INSPECTOR