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## Costs Decision

Site visit made on 29 May 2018

by **C Cresswell BSc (Hons) MA MBA MRTPI**

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

Decision date: 18 June 2018

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### **Costs application in relation to Appeal Ref: APP/R3325/W/18/3193856 Manor Farm, Stibbear Lane to Church Street, Donyatt, Ilminster TA19 0RG**

- 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 R J McHardy for a full award of costs against South Somerset District Council.
  - The appeal was against the refusal of the Council to grant planning permission for removal of redundant agricultural buildings, conversion and alterations of existing barns to provide 4 no. dwellings and the erection of 2 no. new build dwellings at Manor Farm, Donyatt. Proposals to include the provision of 2 no. intermediate affordable units.
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### **Decision**

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

### **Reasons**

2. The main thrust of the appellant's costs application is that the Council behaved unreasonably by not adequately substantiating the single reason for refusal, which cited conflict with Policy HG3 of the South Somerset Local Plan. It is also suggested that by defending the appeal, development was prevented which should clearly have been permitted, having regard to the development plan, national policy and any other material considerations.
3. The Council sought a discount of 35% below market prices for the intermediate housing units, although the evidence indicates that this is not common practice and this rate of discount has only ever been achieved on one site. However, while none of the planning policies I have been referred to specify particular market discount rates, the Local Plan does indicate that negotiations should take place on a site by site basis. As such, it may be expected that different market discounts may be applied to different sites.
4. Nonetheless, a discount of 35% appears a somewhat arbitrary starting point for the negotiations given that no calculations appear to have been carried out to justify this particular figure. However, I am mindful that costs may only be awarded where a party has behaved unreasonably during the appeal process. It seems to me that the negotiations leading up to the Council's decision to refuse were generally confined to the application process.
5. The scheme before me in this appeal proposed a 20% market discount and was refused by the Council on the basis that it would not address an identified housing need. In this regard, the Council substantiated its reasons with reference to the Strategic Housing Market Assessment, which national planning policy identifies as an appropriate way of assessing affordability.

6. While the appellant had evidence of lower discounts being applied to other sites, the Council note that no information regarding site viability had been presented in order to help justify a discount of 20%. The Council also made it clear that the Strategic Housing Market Assessment favoured social rented housing and hence the acceptance of intermediate housing in this proposal was something of a concession. Therefore, even though the Council did not provide many details of why a 35% market discount was considered appropriate, the reasons for refusing the proposed 20% discount were reasonably well substantiated within the appeal evidence.
7. Overall, I consider that the Council has justified its actions and hence acted reasonably. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

*C Cresswell*

INSPECTOR