



Costs Decision

Site visit made on 16 August 2018

by M Allen BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2018

Costs application in relation to Appeal Ref: APP/R3325/W/18/3199334 52 Ash Walk, Henstridge, Somerset BA8 0QA

- 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 P. Kellaway-Moore for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of planning permission for the erection of three dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance 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 application for costs relies on the way in which the Local Planning Authority determined the application, in that the planning application was refused by committee against the recommendation from officers. The committee considered that despite the recommendation from officers, the scheme would result in harm to highway safety and did not make adequate provision for inclusive access.
4. The decision was based on the judgement of the members of the committee, utilising information from interested parties and local knowledge of the area. Whilst the recommendation from officers was to approve the planning application, the Members were not bound to accept that recommendation, so long as reasonable grounds for doing so could be substantiated. The applicant had engaged in discussions with Officers during the course of the planning application and whilst Officers looked favourably on the scheme, Members were entitled to take a different view.
5. I note that the application was deferred from one committee meeting with the request that a speed survey be undertaken and following receipt of that survey, the application was refused. Given the comments of the Highways consultant questioning the reliability of the speed survey, I am not convinced that the Members consideration of this issue was flawed but rather Members gave weight to concerns raised by third parties. This was a decision made on a matter of judgment which the Members were entitled to take.

6. The Council engaged a Highways consultant to present its case on highways matters during the appeal. The evidence provided addresses all of the highways matters on which the Council refused the planning application. The consultant has produced evidence to substantiate that in their professional opinion the refusal of planning permission was well-founded. Whilst I have reached a different conclusion in determining the appeal, I do not consider that the application was refused unreasonably having reviewed the submitted evidence. Therefore whilst the appellant has been required to produce evidence to address the comments of the Council's Highways consultant, I do not consider this to be a wasted expense. I do not consider that planning conditions could have overcome the objections of the Members, particularly in respect of the proximity of the proposed access to the traffic signal controlled junction.
7. The Council has also produced evidence to substantiate the basis for its remaining objections to the proposal in regard to its housing policies. The weight to be attached to this consideration was a matter of planning judgment for the decision-maker. Whilst I have also reached a different conclusion on this matter from the evidence before me I am not convinced that the Council was unreasonable in its decision-making. The applicant states that this reason was not communicated prior to the committee meeting. However as this was prior to the appeal being made it is not a matter that contributes to my findings in this decision.
8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

Martin Allen

INSPECTOR