



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: 8 October 2018

Costs application in relation to Appeal Ref: APP/R3325/W/18/3201425 Hales Lea, Up-Mudford Road, Mudford, Yeovil BA21 5TA

- 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 South Somerset District Council for a full award of costs against Hales Lea Partnership.
 - The appeal was against the refusal of planning permission for land to be developed for Self-Build and Custom Housebuilding.
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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 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. An appellant will be at risk of an award of costs if an appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where the Secretary of State or an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period.
4. The appeal follows a previous appeal for residential development on this site which was dismissed by the Inspector due to the unacceptable effect on the character and appearance of the area. In determining the appeal I have reached the same conclusion.
5. The appellant states that additional information was submitted to overcome the concerns raised within the previous Inspectors decision. However, this was principally based on showing how the village has evolved over time. While this might add to an understanding of how and why development happened, it does not change the physical appearance of the village as it is now and the assessment about whether the effect of the development on the character and appearance of the area would be acceptable. That issue was comprehensively assessed and discussed in the previous appeal decision.
6. Moreover, the appeal site was the same and although the previous application was described as being for residential development, whereas this time around it was for self-build and custom housing, both schemes were in essence the same. The main issue was the same and the previous Inspector also had

regard to a very similar background which was the custom housing matter in the same context of the Council being unable to demonstrate a five year housing land supply. While I have carefully considered the evidence in the current appeal, the two proposals are essentially the same and the circumstances have not materially changed in the intervening period of only 12 months.

7. I note that the appellant makes reference to correspondence from the Council which set out the Council's intention to decline to determine the planning application and I am mindful that, despite this, the Council proceeded to issue a decision on the application. Nevertheless, the appellant then chose to pursue a further appeal in the knowledge that the Council was of the view that a previous very similar application was considered to be unacceptable by it and a previous Inspector. This was a clear risk.
8. Against this background, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.
9. I note that the appellant refers to errors made by the Council during the validation of the planning application. However as these are outside of the appeal process these are not matters that I can consider as part of this decision.

Costs Order

10. 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 the Hales Lea Partnership shall pay to South Somerset District Council, 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.
11. The applicant is now invited to submit to the Hales Lea Partnership, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Martin Allen

INSPECTOR