



Costs Decision

Site visit made on 8 January 2019

by **I Bowen BA(Hons) BTP(Dist) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5th April 2019.

Costs application in relation to Appeal Ref: APP/R3325/W/18/3209790 Holly Tree Farm, Longstrings Lane, Crewkerne TA18 7EA

- 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 Brett Jacobs for a full award of costs against South Somerset District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for residential, custom build and/or affordable housing development.
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Decision

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

Reasons

2. Planning Policy Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The basis of this costs claim is that, in the view of the applicant, an excessive period of time elapsed without the Local Planning Authority (LPA) having reached a determination on the application. Furthermore, its appeal evidence was not submitted in a timely manner. The applicant further submits that the LPA relied on reiterating evidence which had been submitted in relation to the previous appeal¹. In this regard it is contended that this both overlooked important changes in circumstances and evidence, and required the applicant to re-state his case in relation to matters which he regarded as having been settled by the previous appeal inspector.
4. I can appreciate the applicant's concern that a timely decision was not made on the planning application. However, I note that the delay stemmed in part from the LPA having sought specialist advice from the Highway Authority in response to the applicant's evidence in that regard. In any event, the LPA's failure to reach a timely decision in this case is a matter of local accountability rather than one for the appeal process.
5. It is also a matter of regret that LPA did not submit an appeal statement within the original timetable. However, the LPA is not duty bound to submit further evidence in support of its case at an appeal. In this particular instance, given

¹ APP/R3325/W/17/3176399

- the previous history on the appeal site, I specifically requested the LPA's views and set an appropriate timetable. The applicant received adequate opportunity to respond and I note that final comments were duly submitted which I was able to take into account in reaching my decision. I do not therefore regard the applicant as having been prejudiced in this respect.
6. In terms of changed circumstances pertaining to this appeal, the applicant refers to a revised National Planning Policy Framework (published in July 2018). However, this is a matter which the applicant would have needed to have addressed in any event, and is one which I took fully into account in reaching my decision. The applicant also referred in appeal evidence to the Housing Delivery Test (HDT). National planning policy in this regard was issued in a further revision to the National Planning Policy Framework in February 2019. However, South Somerset District Council has not been identified as an authority where the delivery of housing was substantially below its housing requirement over the previous three years. I therefore noted in my appeal decision that no planning policy changes had been introduced which are directly relevant to the appeal. I nevertheless concluded in my appeal decision that the LPA was unable to demonstrate a five-year housing land supply and therefore the presumption in favour of sustainable development was, in any event, engaged. The significance of this was considered in the planning balance and the applicant was not prejudiced by the absence of any substantive evidence having been submitted by the LPA in this regard.
 7. The applicant further points to changed local circumstances and evidence arising between the current and previous appeal proposals which the LPA did not acknowledge. These include options for reductions in the number of dwellings being proposed, proposals for custom build/affordable housing, the planning history on the appeal site and other appeal decisions relating to highway matters.
 8. The LPA did make submissions in relation to the applicant's additional technical highways evidence which I was able to consider during the appeal. However, irrespective of the LPA's response or otherwise in relation to the other matters, these were issues which were important to the applicant's case and the submission of supporting evidence was necessary to enable me to consider the merits of the appeal. Moreover, my appeal decision makes clear that, having carefully considered the evidence, these are not matters over which I concurred with the applicant and I therefore find that the LPA's actions did not lead to an unnecessary appeal being made.
 9. Turning to matters which had already been considered by the previous appeal Inspector, including character and appearance and the provision of housing, I acknowledge that the applicant feels it was unfairly necessary for him to re-state his arguments. However, whilst I identified that the site's planning history was a material consideration relevant to my decision, it was still necessary for me to consider such matters in the round in determining the appeal. I am not therefore persuaded that the LPA's actions gave rise to the needless submission by the applicant of a significant quantity of information. Accordingly, this did not give rise to unnecessary or wasted expense in the appeal process.

Conclusions

10. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. Having regard to the Planning Practice Guidance and all other matters raised, an award for costs is not justified.

Ian Bowen

INSPECTOR