
Costs Decision

Site visit made on 2 July 2015

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 24 July 2015

**Costs application in relation to Appeal Ref: APP/R3325/W/15/3003690
Land adjacent to Dunster House, Lower Woodcock Street, Castle Cary
BA7 7BD**

- 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 Hazel Merrifield for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of planning permission for demolition of retail unit and erection of three terraced houses.
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Decision

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

Reasons

2. As set out in paragraph 30 of the PPG¹, costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 says that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Examples include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. In their report to the relevant committee, Officers of the Council recommended that planning permission be granted, subject to conditions. Members disagreed. That is a course open to them but having done so it is not sufficient to say that the decision was based on local knowledge. Having regard to advice in the PPG, the reasons for refusal need to be substantiated.
5. In my decision on the parallel appeal, I have found no good reason to support a suggestion that the proposal would have a harmful impact on the vitality and viability of the town centre. Moreover, if the Somerset County Council Parking Strategy is read correctly, there is no support in it for the contention that the proposal is lacking in car parking. The reasons for refusal put forward have not

¹ Planning Practice Guidance

been substantiated and it is difficult to escape a conclusion that the Council's stance is based on vague, generalised or inaccurate assertions about a proposal's impact, unsupported by any objective analysis. That constitutes unreasonable behaviour.

6. On top of that, there is the question of the conservation area to consider. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision-maker to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in the exercise of planning functions. There is nothing in the evidence to demonstrate that the Council, in making its decision, attached the required importance and weight to the fact that the proposal would enhance both the character and the appearance of the conservation area.
7. Bringing those points together, the Council has prevented or delayed development that should clearly have been permitted, having regard to its accordance with the development plan, national policy and any other material considerations. The appellant has had to bear the costs of an appeal that should not have been necessary.
8. I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the PPG, has been demonstrated, and that a full award of costs is justified.

Costs Order

9. 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 Hazel Merrifield the costs of the appeal proceedings described in the heading of this decision.
10. 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.

Paul Griffiths

INSPECTOR