

Costs Decision

Site visit made on 24 January 2017

by **JP Sargent BA(Hons) MA MRTPI**

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

Decision date: 02 March 2017

Costs application in relation to Appeal Ref: APP/R3325/W/16/3158315 Hedgerow Meadow, Street Road, Compton Dundon, Somerton TA11 6PY

- 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 Ms E Brown for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of planning permission for the change of use of the land to 1 Traveller pitch and associated works comprising 1 mobile home; 1 touring caravan; 1 ISO container; 1 shed, 1 compost toilet and a polytunnel; use of shed and land for siting/storage of domestic items; and access and associated hardstanding without complying with Conditions 2, 3, 4, 6, 7, 8, 9 & 10 attached to planning permission 13/04943/FUL dated 8 April 2014
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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. In this case the Applicant has offered 2 principal reasons why the award of costs should be made.

The wording of the Reason for Refusal

4. The Applicant contended that '*inappropriate*' and '*unneighbourly*' were misused or misplaced terms, which are not found in policy or guidance. I accept that the former has a specific planning meaning in relation to Green Belt policy. That though does not mean it cannot be a suitable phrase to use, outside the Green Belt, where there is no possibility of ambiguity. Indeed it would appear from the submissions that its meaning was clear in this instance.
 5. In relation to the use of '*unneighbourly*' while there are commonly used terms to describe the unacceptable effects of developments on those living nearby that does not preclude the use of other phrases. I accept that the word is not found in either national or local policy. However, nothing in the parties' cases shows a misunderstanding concerning what was meant by its use.
 6. Consequently unreasonable behaviour resulting in unnecessary expense has not been demonstrated in relation to this matter.
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Failure to follow expert advice

7. The Planning Officer and the Landscape Officer, who I assume were both suitably qualified in their respective fields, did not recommend refusal. However, the decision hinged on points of planning judgement, and to my mind it is not correct to say that in such an instance a Planning Committee cannot determine an application contrary to its officers' recommendation unless it has been advised accordingly by an expert. Rather, the test is whether that decision is suitably substantiated.
8. Moreover, it does not follow that if I find planning permission should be granted because there was no significant adverse impact, then the Council has acted unreasonably in its decision.
9. Whilst clearly the Applicant considered any harm could be resolved by suitably worded conditions that was at the heart of the appeal. I consider that an adequate case has been put forward by the Council to substantiate its refusal, as it identified the balanced nature of the previous decision and the concern about the effect that this intensification would have. Although it is not necessary for the Council to mention its Reason for Refusal in its Appeal Statement, it was in fact given in the opening section.
10. The Council might have overstated the Landscape Officer's views in its Appeal Statement by saying there *'has always been a strong landscape case against the use of this land for this purpose'*. I note though that was not how the Landscape Officer's comments were presented in the Officer Report, and so the Members of the Planning Committee were not misled. I am mindful too that the decisions relating to this site have always had to weigh the identified harm against the benefits. Indeed, I have nothing before me to show that the Council necessarily agreed with the Landscape Officer's view that the landscape objection was not *'heavily-weighted'* when it granted the original permission. Rather, although still minded to grant permission, it might have judged the balance far finer. In such circumstances the comments in the Appeal Statement do not amount to unreasonable behaviour.

Conclusions

11. Accordingly I conclude that unreasonable behaviour resulting in unnecessary expense has not been demonstrated. Therefore the award of costs is refused.

J P Sargent

INSPECTOR