
Costs Decision

Site visit made on 13 October 2015

by G P Jones BSc(Hons) MA MRTPI

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

Decision date: 23 November 2015

Costs application in relation to Appeal Ref: APP/R3325/W/15/3100543 Rear of The Burrows, High Street, Sparkford, Yeovil BA22 7JH

- 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 & Mrs Nigel Tucker for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of planning permission for the residential development of 11 dwellings.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may only 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. Authorities are expected to produce evidence to substantiate each reason for refusal with reference to the development plan and all other material considerations, showing clearly why the development cannot be permitted.
4. The appellants' case for costs is in part based around the fact that they contend that the Council has behaved unreasonably in failing to provide evidence to substantiate each of its reasons for refusal. Furthermore it is alleged that the Council has behaved unreasonably in continuing to defend its reasons for refusal, despite recently acknowledging that it cannot demonstrate that a five year housing land supply exists, and in failing to attend a scheduled accompanied site visit for the appeal.
5. The Council's Planning Committee refused the application contrary to the advice of their professional officers, who had provided clear guidance in relation to the effect of the proposal on the character and appearance of the area and its compliance with relevant development plan policies.
6. Authorities are not bound to accept the recommendations of their officers, but if their professional advice is not followed then reasonable planning grounds for taking a contrary decision need to be provided supported by relevant evidence.
7. I have been provided with a copy of the Minutes of the Planning Committee and there is nothing before me to demonstrate that the Planning Committee

did not debate the application adequately prior to reaching its decision. Furthermore, reasons for refusal were provided that were based on the policies of the development plan that had recently been adopted, and the Council had provided recent appeal decisions that supported this view. In addition, the matter of the effect of the proposal on the scale and character of the settlement is one on which it was reasonable for members of the Planning Committee to take a different view from that of the case officer.

8. As regards the matter of another application for housing in Sparkford being approved at the same Planning Committee, the Council has provided a reasonable justification that the respective merits of the two proposals meant that the other application was considered to be acceptable.
9. The appellants contend that the Council has acted unreasonably in refusing to withdraw its case once it had been recently established that the Council was not able to demonstrate a five year housing land supply. However, I consider that it was still not unreasonable for the Council to continue with the appeal and allow the Planning Inspector to assess what weight should be given to the policies for housing in the development plan as a result of this lack of a five year housing land supply.
10. Consequently, although I have allowed the appeal, I have found that the Council had adequately substantiated its reasons for refusal and thus it behaved reasonably in refusing permission for the scheme.
11. However, I find that the Council has acted unreasonably in its failure to attend the accompanied site visit for the appeal that had been arranged for 7 September 2015. In its statement the Council has referred to its non-attendance due to 'unforeseen and unavoidable circumstances', but has failed to explain adequately what these circumstances were and why no representatives could have attended. The failure of a representative from the Council to attend the accompanied site visit required another site visit to be arranged and therefore the appellant incurred additional costs as a result of this.
12. In conclusion, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated, but only in regard to the Council's failure to attend the site visit that had been arranged for 7 September 2015. For this reason a partial award of costs is justified.

Costs Order

13. 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 ORDERED that South Somerset District Council shall pay to Mr & Mrs Nigel Tucker the costs of the appeal that have been incurred relating only to the additional site visit that was required after a representative from the Council failed to attend the site visit that was scheduled for 7 September 2015.
14. 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.

GP Jones

INSPECTOR