
Costs Decision

Site visit made on 7 September 2015

by Thomas Shields DipURP MA MRTPI

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

Decision date: 01 October 2015

Appeal Ref: APP/R3325/W/15/3018532

Land north of Stanchester Way, Curry Rivel, Somerset

- 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 Richard Mead (Summerfield Developments SW) for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal to grant planning permission for residential development of 30 dwellings
-

Decision

1. The application for an award of costs is refused.
2. The National Planning Practice Guidance (2014) (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably, resulting in the party applying for costs to incur unnecessary or wasted expense in the appeal process. The applicant's case for an award of costs is both procedural and substantive in nature, as discussed below.
3. The applicant refers¹ to the planning application being deferred by the Members for additional drainage information to be supplied. The sequence of events, information supplied, and deferrals and resulting delay in respect of this matter are not in dispute.
4. Given their local knowledge of the area, together with the detailed representations from local residents concerning drainage, it seems to me that the information requested by the Members was not an unreasonable request. Also, while I acknowledge the appellant endeavoured to be as helpful as possible in supplying the extra information, an appeal could have been made against non-determination if it was considered that there were no reasonable grounds for supplying such further information. However, notwithstanding these circumstances, the fact that the final determination of the application was delayed does not by itself relate to behaviour during the appeal process. Hence the delay in determining the application does not amount to unreasonable behaviour as described in the PPG.
5. Having regard to the Members' local knowledge, Councillor Mounter's technical knowledge, and together with the weight of verbal, written and photographic information submitted in opposition to the proposal, I consider on balance that it was not unreasonable for the Council to come to a different decision than

¹ Paragraph 2 of appellant's costs application

was recommended by its officers and statutory consultees. The Council's objection in respect of drainage was adequately set out in its refusal reason with reference to the relevant Development Plan policies. This was substantiated evidentially in the statement of case, including the detailed information² from Councillor Mounter, to which the appellant refers. That it was not supplied at the point at which the Council determined the application was not unreasonable behaviour. There is no convincing evidence before me which would lead me to conclude that any written evidence was deliberately withheld. Consequently, the applicant's production of additional appeal evidence in relation to this matter was not unnecessary.

6. In respect of other matters, I note that the planning application was submitted on 14 July 2014, some eight months prior to its determination by the Council. Over that period of time, leading up to the refusal of the application, emerging Local Plan Policy SS2 had reached a point where it was reasonable for the Members to give greater weight to it than they may have previously done so, particularly in respect of the policy's requirement for proposals to be supported by the local community. In this regard the other matters of siting, design, and garden space referred to in the first refusal reason, were matters that had been raised in objection to the proposal by local residents. Given these circumstances, I consider that it was not unreasonable for the Council to refuse the application, contrary to officer advice, as set out in its first refusal reason.
7. For the above reasons I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Thomas Shields

INSPECTOR

² Paragraph 2.1.10 of appellant's costs application