
Costs Decision

Inquiry held on 23 - 25 April 2014 and 24 September 2014.

Site visit made on 25 April 2014

by Anthony Lyman BSc(Hons) DipTP MRTPI

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

Decision date: 4 November 2014

Costs application in relation to Appeal Ref: APP/R3325/A/13/2210545 Land at Gold Well Farm, Yeovil Road, Crewkerne, Somerset

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Gleeson Developments Ltd for a partial award of costs against South Somerset District Council.
 - The inquiry was in connection with an appeal 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 development of up to 110 dwellings, plus associated open space (including allotments and areas of habitat enhancement), foul and surface water infrastructure, internal footpaths, cycle routes and estate roads and access on to the A30.
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Decision

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

The submissions for Gleeson Developments Ltd

2. With reference to paragraph 49 of the Planning Practice Guidance (PPG) the local planning authority have behaved unreasonably by delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and other material consideration. The Council failed to produce evidence to substantiate their second area of concern and on appeal produced only vague, generalised assertions about the proposal's sustainability which were unsupported by any objective analysis.
3. The Council argued that the submitted travel plan was not achievable, contrary to the views of highway experts. The Council instead relied on 'local knowledge' which it claimed, had not been used to inform the travel plan. On the contrary, the concerns of local ward members had been made known to both the County Council and the Council's own transport expert Vectos. Many of the measures in the travel plan were not challenged by the Council as to whether they could be implemented and local members appeared ignorant of the monitoring and review provisions built into the travel plan.
4. The Council had other reasons for resisting the proposal, including concerns about the impact of the development on the viability of the large approved scheme opposite the appeal site on the southern side of the A30.
5. The outstanding matters relating to the second area of concern were capable of resolution, but Members were reluctant to accept that solution. No expert

witnesses were called to support the continued opposition to the travel plan. No part of the 'local knowledge' was unknown to the transport experts who had reached agreement and therefore, there was no objective justification for continuing to refuse to accept the advice of both the Council's own expert and the applicants' consultant. That disagreement resulted in the discussions at this Inquiry with all the associated costs for which a partial award of costs is sought.

The response by South Somerset District Council

6. The Council is of the view that most of the travel plan could be implemented and it is incorrect of the applicant to claim that the Council's case was completely contrary to that of the County Council and their own expert Vectos. However, the Council do not believe that the travel plan would be fully achievable in that it will not offer a 'real choice' to the residents of the proposed development. Neither the County Council nor Vectos commented upon this issue. The National Planning Policy Framework requires there to be 'real choice' of transport modes and therefore, it was proper and lawful for the Council to pursue this argument.
7. The Council has backed up its case with a significant amount of evidence based on substantial local knowledge which highlighted errors in some of the applicants' evidence, thereby highlighting the benefit of local input. The Council took a policy compliant approach regarding the travel plan. Their conclusion that the travel plan was not sufficiently achievable to make the development sustainable was entirely properly based on evidence derived from local knowledge, which the County Council and Vectos did not have in formulating their opinions.
8. PPG does not list disagreement with another government body or an independent expert as an example of unreasonable behaviour, although the Council recognises that the list is not exhaustive. The Council has not acted unreasonably in this regard.

Reasons

9. PPG advises that costs may be awarded where a party has behaved unreasonably and this has directly caused another party to incur unnecessary or wasted expense in the appeal process. Local planning authorities are encouraged to rely only on reasons which stand up to scrutiny on the planning merits of the case.
10. The Council's second argument against the proposal is in two parts. The first part relates to the Council's view that the site is too distant from services and facilities and that the route via the A30, due to its configuration, gradient and traffic would not be attractive to cyclists, pedestrians or anyone with impaired mobility. The second part related to the submitted travel plan which the Council considered did not demonstrate satisfactorily that future residents would have a real choice of transport modes and would, therefore, have to rely on the private car.
11. The first part of the argument is largely subjective. Having been invited to walk the route and having regard to the evidence of local people who live in Crewkerne and experience its traffic issues daily, I concluded in my parallel decision that those concerns had substance. In view of this conclusion, the

paucity of public transport and the circumstances particular to Crewkerne, I concluded that it was difficult to see how the agreed travel plan could realistically achieve a shift in transport modes. Although the travel plan included provisions for monitoring and review, little evidence was provided as to how the plan could be modified, if the required modal shift was not achieved. The Council's own consultant concluded that without local knowledge the travel plan was about as good as can reasonably be achieved. The fact that the Council did not fully endorse the highway authority's acceptance of the plan does not amount to unreasonable behaviour, provided there were adequate grounds for that stance.

12. The evidence of local ward councillors and Crewkerne Town Council, regarding the achievability of the travel plan was based on detailed local knowledge and was to my mind convincing and carried weight. It was not vague or generalised and was sufficient to substantiate the Council's second concern regarding this appeal. The discussions on this matter at the Inquiry were entirely justified.
13. Therefore, I find that unreasonable behaviour resulting in unnecessary expense, as described in PPG, has not been demonstrated and that an award of costs is not justified.

Anthony Lyman

INSPECTOR