



Costs Decision

Site visit made on 29 May 2018

by **C Cresswell BSc (Hons) MA MBA MRTPI**

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

Decision date: 21 June 2018

Costs application in relation to Appeal Ref: APP/R3325/W/17/3190400 North Street Trading Estate, North Street, Crewkerne, Somerset TA18 7AW

- 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 Stonewater Ltd for a full award of costs against South Somerset District Council.
 - The appeal was against the refusal of the Council to grant planning permission for the erection of 42 No. dwellings and associated works including access improvements onto North Street, parking for Ashlands School and separate footpath link to North Street via Ashlands School.
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Decision

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

Reasons

2. Paragraph 028 of the National Planning Practice Guidance advises that 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. It is argued that the Council did not give adequate weight to the planning history of the site and hence acted unreasonably. I understand that the site originally gained permission for 24 dwellings in 2005, with subsequent approval of reserved matters. Although this scheme was never implemented, the Council granted extensions of time. The most recent permission was dated 30th March 2012, which lapsed on 30th March 2017.
4. The weight given to a lapsed planning permission is a matter of planning judgement, which the Council is entitled to take view on. In this particular case, the lapsed permission was for 24 dwellings whereas the appeal proposal was for 42 dwellings. This represents a considerable change from what was previously being proposed. I also note that a new Local Plan was adopted in the intervening period. Given these changing circumstances, the Council were in no way compelled to approve the appeal proposal on the basis of a lapsed permission for an alternative form of development.
5. It is also argued that the final reports by Mark Baker Consulting (MBC) were directly influenced by the Council and hence were not founded on independent, objective evidence. In this regard, my attention has been drawn to a report dated June 2017 (MBC1 in the appellant's evidence). This contains a different wording from later reports and I am informed that it was withdrawn shortly after it was published on the Council's website.

6. Paragraph 59 of MBC1 says *overall, on highways issues there are some grounds albeit weak to maintain a highway objection on the basis that a safe and suitable access for all users may not be achieved although the argument is weakened by the provision of the alternative pedestrian link. As you are aware, the extant consent expired at the end of March 2017. That consent having expired, and as such there is no longer a "fall back" position. In our opinion, the previous consent is a material consideration that should be afforded appropriate weight by the Council especially as the consent expired during the consideration of this planning application. If the Council do not agree with that assessment of the "fall back" position then in our opinion there are sufficient grounds in the absence of a "fall back" use to maintain a highways objection.*
7. In my view, the consultant's opinion that the highway objection was 'weak' was based on the assumption that a high degree of weight should be given to the lapsed planning permission for residential development. However, that is a judgement which was for the local planning authority to make as the statutory decision makers. As the Council did not consider that it was appropriate to give much weight to the lapsed permission, the highways objection carried more significance and later MBC reports were written to reflect this. The technical evidence relating to highways matters remained essentially unchanged throughout.
8. As such, I do not consider that paragraph 59 of MBC1 contradicts later reports or indicates that more weight should have been given to the lapsed permission. Nor is it evidence of inappropriate Council interference. I am also mindful that costs may only be awarded where a party has behaved unreasonably during the appeal process. The MBC report dated March 2018 forms the basis of the Council's appeal evidence and clearly substantiates the reason for refusal.
9. For the reasons set out above, I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

C Cresswell

INSPECTOR