



Costs Decision

Site visit made on 14 May 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2024

Costs application in relation to Appeal Ref: APP/E3335/W/23/3324775 Land off Broadway Hill, Horton, Ilminster, Somerset TA19 9QU

- 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 Galion Ltd for a full award of costs against Somerset Council.
 - The appeal was against the refusal of planning permission for construction of 49 dwellings and formation of vehicular access.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) 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. The applicant's case for a full award of costs is that the Council in refusing the planning application made vague and inaccurate assertions about the proposal's impact which are unsupported by objective analysis, acted contrary to or has not followed well-established case law, and unreasonably withheld planning permission for development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The Planning Committee refused the application contrary to officer advice. Whilst they are not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.
5. The Council's Statement of Case acknowledges that they were unable to demonstrate a five year housing land supply and engaged Paragraph 11 d) ii) of the Framework. However, this does not mean that the most important policies for determining the application must be set aside. Rather, due weight should be given to them according to their degree of consistency with the Framework.
6. The Council identified that the proposal for additional housing in a countryside location was contrary to the spatial strategy. This concurs with my findings. It is also clear from the Council's first reason for refusal and their Statement of Case, that they took into account the benefits which would derive from the provision of housing on the appeal site. However, in their judgement the harm which would arise from the development in terms of its scale in relation to the

facilities and services on offer in Horton and the reliance on the private car, significantly and demonstrably outweighed the benefits. The weight that the Council applied to the policies and other material considerations in their planning balance is a matter of planning judgement and therefore I do not find that the Council acted unreasonably in this respect.

7. With regards to the second reason for refusal, the appellant provided two signed planning obligations during the appeal. The Council acknowledged in their Statement of Case that doing so would overcome their concerns and they would not seek to defend the second reason for refusal on this basis. This was done in a timely manner. I have found that the planning obligations were necessary to make the development acceptable in planning terms and therefore the Council did not act unreasonably in refusing the application in their absence.
8. With regards to the third reason for refusal, the Council's concerns are well articulated both in the reason for refusal and within their Statement of Case. In this instance, the appellant provided revised plans as part of the appeal. Those plans differed from those before the Council when it determined the application and, in my view, addressed the concerns expressed by the Council.
9. Accordingly, I do not find that the Council made vague, generalised or inaccurate assertions about the proposals' impact, nor that their concerns were unsupported by objective analysis. Equally, I do not find that they acted contrary to or did not follow case law. It follows therefore that the Council did not prevent or delay development which should clearly be permitted.
10. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

Alison Fish

INSPECTOR