



Costs Decision

Site visit made on 30 October 2018

by **J Wilde C Eng MICE**

an Inspector appointed by the Secretary of State

Decision date: 20 November 2018

Costs application in relation to Appeal Ref: APP/H3320/W/18/3208103 Land to the rear of 15 and 15a Quay Street, Minehead, Somerset TA24 5UL

- 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 John and Mrs Jacqui Land for a full award of costs against West Somerset Council.
 - The appeal was against the refusal of planning permission for a new Sailors Horse Music facility including workshop area with ancillary accommodation of; kitchen/servery toilets, entrance hall and display area. Also first floor caretakers flat with 2 bedrooms.
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Decision

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

Reasons

2. I have considered this application for costs in the light of the Government's Planning Practice Guidance (PPG). This advises that an award of costs against a local planning authority may be procedural, relating to the appeal process, or substantive, relating to the planning merits of the appeal. It makes clear that a local planning authority are required to behave reasonably in relation to both of these elements and provides examples of unreasonable behaviour¹.
3. In relation to substantive behaviour they include unreasonably refusing planning applications and promoting vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. In this particular case the appellants consider that the Council has acted unreasonably by ignoring evidence that the appellants produced in support of the scheme as well as inadequately appraising issues relating to the National Planning Policy Framework (the Framework).
5. In respect of the ignored evidence this comprised photomontages showing that the roof of the proposed development would not be seen from street level above the roofs of the listed buildings. The Council however did not accept the accuracy of the photomontages and have subsequently pointed out that the photomontages did not show the sight lines available from the raised viewing

¹ Paragraph: 047 Reference ID: 16-047-20140306 and Paragraph: 049 Reference ID: 16-049-20140306

platform on the opposite side of Quay Street, and indeed have supplied, as part of their appeal documentation, amended photomontages showing that the roof of the proposed development would be visible. The Council have also explained their rationale, in terms of the height of the chimney at the southern end of 15 Quay Street, and in relation to the appellants' submitted drawings, as to why they doubted the accuracy of the photomontages.

6. I also note that the views from the road to the front are not the only issues that the Council had with the proposal. Their officer's report makes clear that they consider that the proposal would be overbearing and that views, demonstrating the proposals dominance over the listed buildings, would be available from the path that runs to the side of the appeal site. The Council also point out in the officer's statement that the introduction of such a long building detracts from the character of the area when viewed from the path adjacent to the sea wall and the urban path.
7. I cannot therefore accept that the Council have ignored the photomontages. They have questioned their accuracy, but the potential views from the road formed only a part of the Councils case. They have not therefore acted unreasonably in this matter.
8. In respect of the issues relating to the Framework, the officer's report is very clear in concluding that the harm to the significance of the heritage asset would be less than substantial and then goes on to balance the harm against the public benefits. I acknowledge that the officer does not go into great detail in her report but it is not the case that the benefits have been overlooked. The policy relating to training and educational provision is not mentioned but this is not directly applicable to the proposed development.
9. Overall I do not consider that the officer's report is so deficient in detail as to constitute unreasonable behaviour.

Conclusion

10. Unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not therefore been demonstrated, and an award of costs is not justified.

John Wilde

Inspector