



Costs Decision

Site visit made on 4 February 2020

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2020

Costs application in relation to Appeal Ref: APP/D1265/W/19/3238469 Home Farm, Dorchester Road, Winfrith Newburgh DT2 8DD

- 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 Mrs Gormley for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for demolition / conversion of outbuildings to provide a single dwelling and ancillary store / carport.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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. The applicant considers that the Council acted unreasonably, in substantive terms, by refusing development that should have clearly been permitted having regard to material considerations, by failing to substantiate the harm alleged in its Decision Notice, and by taking an inconsistent approach to decision making.
3. The planning permission for a similar development on the appeal site is referred to in the Council's Officer Report, including within the sections on relevant planning history and principle of development. The Council's appeal statement then elaborates on this matter and the Council's position on it. The correspondence that occurred between the main parties prior to determination of the planning application also indicates clearly that the approved scheme and relevant case law was considered by the Council in relation to a fallback scenario to the appeal proposal. Accordingly, and despite net-gain biodiversity considerations not being detailed in the Officer Report, it is clear that the Council gave consideration when determining the planning application to what the applicant describes as a very significant material consideration. Although the applicant may disagree with the Council's position on the matter, such disagreement does not necessarily mean that the Council erred in its judgement nor that the development should have clearly been permitted.
4. The Council's Officer Report states that the proposed development would, like the approved scheme, have a positive impact on the character and appearance of the area. However, its Decision Notice alleges that due to its location, the appeal proposal would be inappropriate and harmful development that would be to the detriment of the intrinsic character and beauty of the countryside. Although these appear to be somewhat contradictory, the Council's appeal

statement elaborates on the reason for the harm it alleged in the Decision Notice, which itself sets out a clear, complete refusal reason based on conflict with the development plan. While I have found that the development would not harm the character and appearance of the area, including the surrounding countryside, this does not mean that it would be in an appropriate location with regard to relevant development plan policies nor that the Council consequently acted unreasonably in relation to this matter.

5. The Council recently approved a development at Gupples Farm where the applicant in that case relied on an approved fallback scenario to justify the proposed development. However, without full details of that example, it is not apparent to me that the Council has been inconsistent in its decision making and its position on fallback scenarios in that example and the appeal proposal. In addition, that site is located in an area with a different development plan, thereby negating its relevance to the appeal proposal.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Tobias Gethin

INSPECTOR