



Costs Decision

Site visit made on 27 January 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st February 2020.

Costs application in relation to Appeal Ref: APP/D1265/W/19/3238468 (Appeal A) & Appeal Ref: APP/D1265/W/19/3238471 (Appeal B)
Milton Farm Cottage, Milton On Stour SP8 5PX

- 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 & Mrs R Moore for a full award of costs against Dorset Council.
 - The appeals were against the refusal of planning permission, in respect of Appeal A, to reduce excavation and the erection of an agricultural barn for the storage of machinery, implements and feed in connection with the landowners adjacent holding; and in respect of appeal B, to erect steel frame agricultural barn for the purpose of storing implements and feed.
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Decision

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

Reasons

2. The Planning Practice Guidance 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. Both appeal buildings would be outside the designated conservation area. The appeal A site, as defined by the red line on the site location plan, includes the access to it. Therefore, the Council is not entirely wrong to say that the site is within the conservation area, which includes part of this access. The same is not the case with appeal B, where the red lined application site relates only to the building. The officer report, therefore, is somewhat imprecise in this regard.
4. However, the Council's officer reports and appeal statement also indicate that the open field is part of the setting of the conservation area. There would also be some locations within the conservation area from where the buildings would be seen. Despite their distance from the listed buildings, I have also found that both sites are within the setting of The Old House and associated barns. As set out at Paragraph 194 of the National Planning Policy Framework, development within the setting of a heritage asset can harm its significance. I have found this to be the case in respect of appeal B. As such, despite the imprecision, I find that the Council has not behaved unreasonably in assessing the applications in this way.
5. Turning to biodiversity matters, I note that the Council did not give the appellants opportunity to respond to ecological concerns. The appellants also

suggest that the Council could have relied upon evidence from a previous application concluding that there was no likelihood of adverse effects at that time, but the survey only related to the appeal A site. Furthermore, for reasons given in my main decision, that older evidence is now of limited weight and more recent evidence, referred to in my main decision, confirms that the issue is still relevant.

6. A new survey was carried out for the appeal in respect of the appeal B site. Whilst this returned a negative result, biodiversity is an important material consideration that can only be properly considered if the presence or absence of protected species is known prior to the decision being taken. In light of ecological interest within the area, as set out in that survey, it was not unreasonable for the Council to conclude that protected species could be present. Whether or not the Council could have entertained a short delay to invite or accept additional information, the need for such evidence means that the appellant has not been put to any wasted expense in the appeal process as a consequence.
7. I, therefore, find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Bale

INSPECTOR