
Costs Decision

Site visit made on 25 August 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2020

Costs application in relation to Appeal Ref: APP/D1265/W/20/3251442 73-75 Portland Road, Weymouth, Dorset DT4 9BE

- 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 ACME Property Ltd for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for conversion/alterations of shop and building back to 2 dwellings and erection of 3 houses to rear.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

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. The Council's reason for refusal indicates that the proposed gardens would be small. The minutes of the Planning Committee meeting explain that these gardens would be smaller than others nearby leading to a significantly different living experience in the proposed homes. However, there is no subsequent substantive explanation as to why this different living experience would be harmful.
4. Moreover, whilst suggesting that the gardens would not reflect the type of housing proposed, the Council's appeal statement provides no substantive evidence as to the size of garden space that should be provided, or why those proposed are inadequate. Nor is there any detailed rebuttal of the appellants arguments surrounding the site's context, including the proximity of public open space.
5. I, therefore, find that the Council's reason for refusal is based upon vague and generalised assertions of harm. In accordance with the Planning Practice Guidance such is unreasonable behaviour. In the absence of demonstrable harm, specific consideration of this site's context could have resulted in an appeal being avoided and, therefore, wasted expense in the appeal process has resulted.
6. Therefore, a full award of costs is justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Dorset Council shall pay to ACME Property Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. The applicant is now invited to submit to Dorset Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

M Bale

INSPECTOR