



Costs Decision

Site visit made on 24 November 2020 by Christian Ford BA (Hons) BTP MRTPI

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2021

Costs application in relation to Appeal Ref: APP/D1265/W/20/3258313

1A Battlemead, Swanage, Dorset BH19 1PH

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Mr J Streams for a full award of costs against Dorset Council.
- The appeal was against the refusal of the Council to grant planning permission to replace existing dwelling with detached house and erect additional dwelling adjacent. Form new access and parking.

Decision

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

Application Procedure

2. The Planning Decision Officer's recommendation is set out below to which the Inspector has had regard before deciding the application.

Reasons for the Recommendation

3. The Planning Practice Guidance ('PPG') advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. It adds that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by preventing development which should clearly be permitted having regard to its accordance with the development plan, not determining cases in a similar manner, and failing to produce evidence to substantiate a reason for refusal.
 4. While the planning application was refused by the Council's planning committee, contrary to officer recommendation, the committee is not obliged to follow the advice of its officers. Nevertheless, any reasons for refusal must be supported by evidence and objective analysis.
 5. The Council's reason for refusal expressed the view the development would fail to accord with the spacious, low density character of the existing estate which is a designated 'Area of Distinctive Local Character' in the 2017 Swanage Local Plan. In this respect, among other factors, the committee reasonably took into consideration the fact the original corner plot, which would ordinarily only accommodate one dwelling, would instead be occupied by three dwellings. Although I came to a different view in the appeal decision, having given substantial weight to the fact the existing occupation of the site by 1A Battlemead is inconsistent with the characteristic layout of the locality and the proposal would enhance the Battlemead street scene, the Council's view was
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- not an unreasonable conclusion to draw having regard to the development plan.
6. Similarly, the committee reasonably considered the proposed obscure glazing of a primary bedroom window in one of the dwellings would not result in a high standard of living accommodation. While this view was supported in the appeal decision, it was determined the proposed obscure glazing of the particular window was unnecessary in terms of seeking to protect the living conditions of neighbouring occupiers.
 7. While attention had been drawn in the committee report to Appeal Decision: APP/B1225/W/19/3229294, it was not directly comparable because the original plot in that case would only accommodate two dwellings.
 8. Finally, the Council's reason for refusal fleetingly referred to the proposal's failure to achieve 'affordable' housing. Evidence was not presented by the Council to show that there is an extant development plan policy which requires the provision of affordable housing on such small sites within the AONB. It is therefore concluded this particular element of the reason for refusal was unreasonable.
 9. While unreasonable behaviour by the Council has therefore been established, costs can only be awarded where the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 10. From the above assessment, it is clear there were two substantive matters that the appellant reasonably had to address through the appeal process, such that a full award of costs is not justified. As affordable housing was, in the event, a peripheral matter and the appellant was able to deal with it very briefly in their appeal statement, it did not give rise to any discernible additional expense. A partial award of costs, solely in relation to this matter, is therefore also not justified.

Conclusion and Recommendation

11. For the reasons given above and having had regard to all other matters raised, I recommend that the application for an award of costs should be refused.

Christian Ford

PLANNING DECISION OFFICER

Inspector's Decision

12. I have considered all the submitted evidence and the Planning Decision Officer's report and on that basis the application for costs is refused.

Andrew Owen

INSPECTOR