



Costs Decision

Site visit made on 3rd March 2021

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2021

Costs application in relation to Appeal Ref: APP/D1265/W/20/3260086 Land to the north of Casa Velha, Ringwood Road, Three Legged Cross BH21 6RB

- 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 G of Westcroft Construction Ltd for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for erection of 14 commercial units for B1(b), B1(c) and B8 use together with access and associated parking without complying with a condition attached to planning permission Ref 3/19/1365/FUL, dated 16 March 2020.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant has applied for costs on the basis that the reason for refusal lacks any reasonable merit and as such demonstrates unreasonable behaviour by the Council's Planning Committee.
5. In this case the Council's Officers recommended approval but the Council Members did not accept the recommendation. The decision is one which is a matter of judgement. While the Members are not duty bound to follow the advice of their professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable.
6. The scheme was refused because Members considered that the operation of the permitted employment use and associated traffic generation being extended to between the hours of 1000 and 1600 Sundays and public holidays would result

in an unacceptable risk of noise pollution and disturbance, which would impact negatively on neighbouring amenity.

7. The Council provided an appeal statement and a copy of the minutes of the Planning Committee meeting which set out details to justify that decision. It is evident from the minutes that Members had fully understood the proposal. They were aware of the Noise Impact Assessment and the Technical Note provided by the applicant.
8. The assessment as to whether noise would be a statutory nuisance is different from planning considerations which need to consider whether there would be an adverse effect on the living conditions of neighbouring occupiers. In this case, local Members were not satisfied that the additional activity on Sundays and public holidays would not be harmful to the living conditions of surrounding residential occupiers. It will be seen from my decision that I have come to the same view.
9. It is a planning judgement as to whether the proposal meets the policy tests taking all relevant factors into account, including submitted evidence and the views of local residents. I have no reason to find that the Council's judgement was unreasonable.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

Rachael Pipkin

INSPECTOR