



Costs Decision

Site visit made on 8 September 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2021

Costs application in relation to Appeal Ref: APP/D1265/D/21/3269360 29 Ventnor Road, Portland DT5 1JE

- 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 Calvin Samways for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for replacement of existing raised patio area, removal of portion of garden wall to facilitate vehicular access to new parking area under replaced patio. To incorporate new access steps to dwelling.
-

Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby directly caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant contends that the Council was wrong in its assessment before the appeal, the principal planning officer ignored the advice of consultees, and did so at the last minute, flying in the face of previous, proactive dialogue between the parties. The Council failed to have adequate regard to the Appraisal and the relative heritage or otherwise of the wall. The Council failed to weigh the less than substantial harm to the CA against the public benefits of the proposal.
4. Consultees are just that. Although I can understand that the timing of the principal planning officer's intervention would have caused frustration, this was not unreasonable insofar as it can be a normal part of the development management process. In any event, whilst not offering an objection, the Conservation Officer did find less than substantial harm to the CA. The officer report is consistent with the heritage advice in this respect.
5. Whilst proactive engagement is important, Council's may well reach the view that issues concerning a planning application cannot be resolved with further dialogue and have a duty to determine the application in such circumstances.
6. The setting of a CA can contribute to its significance and the significance of a CA can therefore often be affected by proposals within its setting. The Council was therefore entitled, and indeed bound, to consider the entirety of the scheme in relation to the CA. The concerns the applicant has raised about the quality of the Council's analysis, the provenance of the wall and the content of the Appraisal are matters of planning judgment. These are matters that the

Council adequately addressed within its report, when substantiating why it considered the proposal to result in heritage harm.

7. What the Council did not do, and should have done, is present within the officer report a balance of the identified harm with the public benefits of the proposal, which is a requirement of both local and national policy in this case. The absence of such is also a legitimate cause for frustration, particularly given the way in which the applicant articulated potential public benefits to the Council during the process.
8. That said, the Council did discharge its duty to determine the scheme against the development plan and made reference to the Framework and its particular heritage section in doing so. There is no clear evidence before me that if the Council had explicitly undertaken a balancing exercise within the officer report, that the appeal and its related costs could have been avoided.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been clearly demonstrated. An award of costs is not justified.

Matthew Jones

INSPECTOR