The Planning Inspectorate

Costs Decision

Site visit made on 18 October 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Costs application in relation to Appeal Ref: APP/D1265/W/21/3277811
Thatchways, Blandford Road, Iwerne Minster DT11 8QN

- 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 Quest Estates (UK) Ltd for a full award of costs against Dorset Council.
- The appeal was against the failure to give notice within the prescribed period of a decision on an application for planning permission to erect four no. dwellings with garages; modify vehicular access; and demolish existing garage.

Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance (PPG) advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.

3. The Council's objection to dwelling size stemmed directly from a previous appeal decision[1] in which the Inspector took the view that there was no need for 4-bedroom dwellings in this location. The concerns were couched in general terms, based on a 2016 housing needs survey and evidence of interested parties and the AONB Officer pointing to an unmet need for affordable housing and/or 2/3-bedroom units [my emphasis].

4. This has been interpreted to mean that the proposed dwellings needed to be reduced in size. That is not my reading of the appeal decision. The concerns related purely to bedroom numbers. The need for affordable housing was a separate issue and one that the Council appears to have conflated through its reference to Policy 9 of the North Dorset Local Plan. There may well be an issue with the affordability of market housing, not least because house prices are likely to be linked to floorspace, but the development plan does not grapple with this issue. All that we can determine from the Inspector's comments is that there is an unmet need for 2/3-bedroom units and no need for 4-bed units. In revising the scheme to 3-bed dwellings, the appellant addressed that issue.

[1] APP/D1265/W/20/3253365 & APP/D1265/W/20/3257248

5. Even if floorspace were deemed to be relevant, the extant permission on the site is for 3-bedroom dwellings that are 20% larger than those being proposed under the appeal scheme. It is not clear why the previous Inspector referred to the permitted units as being smaller, but the appellant drew the Council's attention to the Gross Internal Area figures. The authority has not disputed those. Furthermore, it has not explained why it granted permission for 3-bed units at nearby Talbot Courtyard which are comparable in size to those being proposed. Overall, I consider that the Council's arguments on dwelling size lacked a robust evidential basis and a grounding in planning policy.

6. In its submissions on character and appearance, the Council invites me to revisit concerns from the Conservation Officer that have already been rejected by an Inspector in relation to a substantially similar scheme. Such behaviour is unreasonable. The PPG explains that a local planning authority is at risk of an award of costs where they persist in objections to a scheme or elements of a scheme which an Inspector has previously indicated to be acceptable.

7. The Council raises an additional issue in respect of cumulative impacts, were the appeal scheme to be implemented together with the permitted bungalow on land to the north of the site. However, it does not explain how or why a modest increase in built mass would cause harm to the Conservation Area and Area of Outstanding Natural Beauty. The authority's assertions are vague and unsupported by any objective analysis. This amounts to unreasonable behaviour, as set out in the PPG.

8. The application was not determined within the statutory 8 week period. The Council has set out the reasons for this in its response to the costs application, but there is nothing to suggest that this information was conveyed to the appellant at the time. The lodging of the appeal was triggered by officers indicating that they would not support the application. However, based on my assessment of the issues there was no justifiable reason to withhold planning permission. I therefore find that the Council has behaved unreasonably in delaying development which should clearly be permitted. This has led to the appellant incurring unnecessary expense in preparing for the appeal. As such, a full award of costs is justified.

Costs Order

9. In the 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 Quest Estates (UK) Ltd, the costs of appeal proceedings described in the heading of this decision. Such costs to be assessed in the Senior Courts Costs Office if not agreed.

10. 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.

Robert Parker

INSPECTOR