



Costs Decision

Site visit made on 13 December 2021

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 25 January 2022

Costs application in relation to Appeal Ref: APP/D1265/D/21/3286003 245 Christchurch Road, West Parley, BH22 8SQ

- 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 Mr Carlos Seaton-Smith for a full award of costs against Dorset Council.
 - The appeal was against a refusal of planning permission for the conversion of existing garage to annex accommodation.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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. It goes on to state 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, which can include making vague or generalised assertions about a proposal's impact, or by failing to provide evidence to substantiate reasons for refusal.
3. The applicant has alleged that the Council determined the application based on speculation and unsubstantiated objections, rather than factual analysis of the proposal. It also alleges that no consideration was given to any potential fallback position under permitted development rights. Whilst the costs application also highlights delays with determination of the planning application, in itself, that is not demonstrative of unreasonable behaviour.
4. The Council's consideration of the planning application relied heavily on the consultation response from Natural England. Natural England's response expressed concerns that the proposal would be tantamount to a new dwelling, as opposed to annex accommodation which would be ancillary to the main dwelling. On this basis, it concluded that the proposal would fall outside of the parameters of development permitted within 400m of the Dorset Heathlands¹ (pursuant to the Heathlands SPD²), as it would adversely affect the integrity of these protected areas.

¹ Dorset Heath Special Area of Conservation, Dorset Heathlands Special Protection Area and the Dorset Heathlands Ramsar

² The Dorset Heathlands Planning Framework 2020 - 2025

5. Both the Council and Natural England highlighted a number of factors to substantiate their conclusion that the proposal would be tantamount to a separate dwelling, namely the physical separation between the proposed annex and the main dwelling, and the separate access to serve the annex.
6. These factors, as reasoned in the associated appeal decision, are indicative of development which is tantamount to a separate dwelling, regardless of the appellant's intended use. As such, I do not consider that the Council's consideration of the issues was flawed or unreasonable. It drew on a factual analysis of the physical features of the site and the development proposed and was a legitimate matter of planning judgement.
7. In terms of any fallback position, the applicant has not clearly demonstrated what could be achieved under relevant permitted development rights (for example through evidence of a certificate of lawful development). An application, and thereafter appeal, has been made in respect of the proposal, and as a result, any such fallback would not necessarily warrant detailed analysis by the Council in determination of the application.
8. For these reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated in this instance.

James Blackwell

INSPECTOR