



Costs Decision

Site visit made on 20 December 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2022

Costs application in relation to Appeal Ref: APP/D1265/W/21/3280925 Land North of Mill Lane, Yetminster, Dorset DT9 6ND

- 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 Barfoot for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for the erection of a single storey single family dwelling with associated landscaping to accommodate parking.
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Decision

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

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 caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant asserts that the Council has acted unreasonably in introducing a new reason for refusal during the appeal relating to the potential effects of the scheme on the integrity of the SPA. This behaviour has generated unnecessary costs during the appeal and, had this reason for refusal been expressed on the decision notice, the applicant may well not have made the appeal.
4. The Council accepts that it has introduced a new reason for refusal that should have been identified when permission was refused. I would add that the SPA is not clearly signposted in the officer report either, whereas if it had been, it may have served as a prompt to the applicant. As I have gone on to dismiss the appeal for other reasons, it follows that these omissions led to abortive costs for the applicant during the appeal, in attempting to deal with the SPA issue.
5. However, I am unable to hypothesise as to whether the issue would have been resolved before the appeal or alternatively would have dissuaded the appeal from being made, had it been set out on the decision notice. I note that the applicant worked quickly to offer a potential solution during the appeal itself. For these reasons, it is not demonstrated that, had the SPA issue been a reason for refusal, the appeal would have been avoided. As such, I consider that the unnecessary expense that has occurred is confined to that relating to the SPA work, not the appeal in its entirety.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified.

Costs Order

7. In 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 Mr Barfoot the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in relation to the potential effect of the proposal on the integrity of the SPA; such costs to be assessed in the Senior Courts Costs Office if not agreed.
8. 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.

Matthew Jones
INSPECTOR