

Costs Decision

Site visit made on 25 March 2022

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2022

Costs application in relation to Appeal Ref: APP/D1265/W/21/3284755 Osmington Mills Holidays, Mills Road, Osmington Mills DT3 6HB

- 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 Allen Main (Osmington Holiday Park Ltd c/o Waterside Holiday Group) for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for use of land as a year round holiday park.
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Decision

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

Reasons

2. The Planning Practice Guidance¹ (the PPG) states that costs may be awarded where a party has behaved unreasonably and thereby directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG adds that one of the aims of the costs regime is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case.
3. The applicant considers that the Council acted unreasonably as planning permission should have been granted, having regard to development plan and national policies and other material considerations. Concerns have also been raised in respect of the Council's lack of consistency in dealing with proposals seeking to enable year round occupation of holiday accommodation. Furthermore, the applicant considers that the Council acted unreasonably by taking considerably longer than the prescribed period to determine the planning application.
4. The whole determination process would have been understandably frustrating for the applicant. However, the Council has partially explained the delay by the reorganisation which was taking place at the time. Furthermore, there is nothing before me to suggest that a quicker decision by the Council would have resulted in a different outcome and would have prevented the submission of the appeal. This alone would not constitute unreasonable behaviour.
5. A decision made by the Planning Committee contrary to the Case Officer's recommendation does not in itself constitute unreasonable behaviour. Members

¹ Paragraph: 030 Reference ID: 16-030-20140306.

are entitled to reach a different decision, as long as they do so whilst relying on substantive planning grounds. The PPG stresses 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.

6. In this instance, members of the Planning Committee took the view that the use of the caravans as year round holiday accommodation would not represent sustainable development, particularly by reason of the effect that the changes would have on the holiday park's carbon footprint and wider climate change implications. However, the Council appears to have given limited consideration to the fact that the proposed changes relate to an existing holiday park, which currently operates for ten months of the year.
7. The PPG clearly states that not determining cases in a consistent manner is a type of behaviour that may give rise to a substantive award of costs against a Local Planning Authority. To my mind, that is exactly what occurred here, as the Council has presented no clear and substantiated justification for refusing the year round use of the holiday park, particularly as the applicant has referred to applications at other holiday parks, where the Council has supported year round uses. As the proposed changes relate to an existing holiday park, the number of lodges and distance away from larger settlements does not in my view provide justification for adopting such a different stance.
8. The second reason for refusal relates to the absence of satisfactory completed planning obligation to mitigate the effect of the development on European protected heathlands. A Unilateral Undertaking was submitted by the applicant as part of the appeal process, and no concerns were raised by the Council in that regard. I am therefore satisfied that the Council did not act unreasonably in respect of the second reason for refusal.
9. For the reasons detailed above, I however conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated, and a partial award of costs is therefore justified in this instance, in respect of the unnecessary expense incurred by the applicant to contest the first reason for refusal.

Costs Order

10. 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 Allen Main (Osmington Holiday Park Ltd c/o Waterside Holiday Group), the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the first reason for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. 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.

S Edwards

INSPECTOR