
Costs Decision

Site visit made on 4 October 2023

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Costs application in relation to Appeal Ref: APP/D1265/W/21/3288438 Land at 74 Wareham Road, Corfe Mullen, DORSET, BH21 3LG

- 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 Blacklane Developments Ltd for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for the demolition no 74 Wareham Road and sever land to the rear of Nos 74, 76 and 78 Wareham Road and construct 9 new dwellings with associated garaging and access.
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Decision

1. The application for 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. The PPG provides 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, for example, or by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The appellant has submitted the costs claims, relating to delays and inconsistency from the Council. I note that the planning application was appealed due to failure to give notice of its decision within the appropriate period. However, this was a complex planning application with differing issues. I have no substantive evidence that the delays were unreasonable in length, though I note the Council had resourcing issues at that time. It is also apparent that the Council were open to negotiations and amendments. Overall, I am not persuaded that these delays were the reason this appeal had to be submitted.
4. It is unfortunate if there were positive indications about the proposal from Council Officers, but this changed with concerns later raised. However, it appears from the evidence before me that the appellant knew of the concerns the Council had later in the process, with it seeming that further negotiations were possible. It is the Council decision or that contained within their Statement of Case, which is most important with the appeal, with the Council objections clear and assessed against planning policy.

5. I recognise the benefits to the proposed development, providing housing in an accessible location, but I do not agree that this is a development that should have clearly been approved at planning application stage, due to the issues that needed to be addressed.
6. The matter of the loss of trees at the site was a particular issue with this proposal. This would have an impact to local biodiversity. However, from the evidence submitted I do not consider that the Council concerns were unreasonable or that the Tree Officer was not objective in their comments. There were Council concerns with regards the issue of tree removal, which would have delayed matters for this to be addressed, but these are material considerations and this was not unreasonable behaviour by the Council. The Council have set out their objections on this matter clearly and with justification.
7. Overall, whilst there may have been delays with the planning application, I am not persuaded that an appeal (with the associated costs for the appellant) would have been avoided even without these delays. It is the appeal process and not the planning application process that is the subject to this costs application. In my view, the Council acted reasonably overall and did not delay a development that clearly should have been permitted, with the appeal also being dismissed.
8. Therefore, for the reasons set out above, I find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

Mr S Rennie

INSPECTOR