



Costs Decision

by **P N Jarratt BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 March 2023

Costs application in relation to Appeal Ref: APP/D1265/W/22/3308355 The Croft, Burts Lane, Mannington, Wimborne, Dorset, BH21 7JX

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr A Revel for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for the siting of six camping pods for use by fishermen.
-

Decision

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

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against the party who has behaved unreasonably and therefore caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant is seeking an award of costs based on the time taken to determine the application; that the Green Belt issues should have been discussed with the appellant; additional information was requested that was either not required or rejected by Natural England; no justification has been provided for dismissing the independent assessment; and, the Council unilaterally changed the description of development. The applicant also questions the Council's response to the planning merits of the proposed development and interpretation of Green Belt policy but neither these nor the claimed lawful use of the site are relevant to a costs application.
4. The Council accepts some of the delay in determination of the application, but delay was also caused by the applicant who advised that an independent appropriate assessment would be carried out on the proposal' protects impact on protected sites of nature conservation value. The notification was dated March 2022, but the assessment was not submitted until August 2022. It was then reviewed by Natural England and the application was refused on the 29th September 2022. In any event it would have been open to the applicant to appeal against non-determination of the application after eight weeks. This was not done.
5. Whilst it is good practice for a Council to discuss the progress of an application with an applicant it was a matter for the Council's discretion to consider whether to discuss refusal reasons. In this case the Council considered that nothing would be gained by doing so. This does not represent unreasonable behaviour.

6. The applicant's Appropriate Assessment was not needed or requested by the Council, so the expense involved was a decision of the applicant and not of the Council. The Council has a duty as 'Competent Authority' under the Habitat Regulations. Natural England assessed the applicant's own assessment and did not consider that the Council as the Competent Authority could positively conclude the assessment as a proposed mitigation was insufficient to avoid an increased risk of adverse effects over time. The Council's officer report sets out the reasoning why the proposed of arms was unacceptable in terms of its impact on protected sites of nature conservation and this provides the justification for the decision. This does not represent unreasonable behaviour.
7. The Council has not explained why it changed the description of the proposal although it advised the applicant that it was doing so by letter dated 11th November 2021. There is no indication that the applicant challenged the change in the description as a result of receiving the letter. However, the change was minor and not substantive. It would have not weakened the applicant's case as a supporting planning statement set out the proposal and this was available to consultees. I find that the change in the description of development has not caused the appellant to incur unnecessary or wasted expenditure in the appeal process

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

P N Jarratt

INSPECTOR