



Costs Decision

Site visit made on 17 October 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2023

Costs application in relation to Appeal Ref: APP/D1265/W/22/3313478 Little Orchard, Horseshoes to Gaunt's Common – Lane, Gaunts Common, Dorset BH21 4JR

- 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 Mrs Julie McCreath for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for demolition of existing double garage and erection of a single dwelling adjacent to Little Orchard, Gaunts Common.
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Decision

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

Reasons

2. Planning Practice Guidance ('PPG') advises that, irrespective of the outcome of the appeal, costs may only 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.
3. The applicant's application for costs is based on the alleged unreasonable behaviour of the local planning authority ('LPA') and wasted expense, for reasons, as considered below.
4. Prior to submitting the planning application, the applicant sought pre-application advice. This would have given the applicant a reasonable indication of the information, including any technical assessments/reports required to support the planning application. Also, before commissioning any technical assessments/reports, it is likely that the applicant would have been made aware of the financial implications of these and any requisite professional fees for submitting a planning application. Notwithstanding this, the applicant chose to submit the planning application. Similarly, the applicant has chosen to lodge an appeal against the LPAs decision to refuse the planning application.
5. Irrespective of the timing of the Tree Preservation Order ('TPO') and the applicants objection to this, LPAs can make a TPO if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area. Notwithstanding the TPO, given that there are trees at the appeal site and off site, in proximity of the proposed development, the planning application would have required some form of specialist tree survey/report to consider the effects of the proposal on these trees.

6. The LPAs third reason for refusal relates to drainage and flood risk. According to the LPA, the appeal site is located within an area of medium risk of flooding from surface water drainage, and therefore a site-specific flood risk assessment was requested along with details of a conceptual drainage scheme. There is also some third-party anecdotal evidence of flooding. Also, this reason for refusal is specific to the proposal and refers to local and national planning policy. Therefore, I am not persuaded that the LPAs third reason for refusal was unsubstantiated. Even so, this reason for refusal has been resolved directly as a consequence of the Flood Risk Assessment which the applicant chose to submit with the appeal.
7. For the above reasons, and notwithstanding that I have found in favour of the applicant's appeal, there is nothing to suggest that the applicant has been forced to incur financial costs of submitting technical assessments/reports to support the planning application and to defend any reasons for refusal at appeal.
8. Given all of the foregoing, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, a full award of costs is not justified.

M Aqbal

INSPECTOR