
Costs Decision

Site visit made on 23 April 2024

by C Rose BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2024

Costs application in relation to Appeal Ref: APP/D1265/W/23/3334064 Land Between 478-480 Chickerell Road, Chickerell, Dorset DT3 4DH

- 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 Paul, Kelly and Rob Turner for a full award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for new dwelling incorporating garage and car barn.
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Decision

1. The application for a full award of 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. Costs in this instance are being applied for on substantive grounds.
3. The applicant considers that the Council acted unreasonably by refusing planning permission. They consider the unreasonable behaviour to be on the basis that the Officer report for a previous proposal contained inaccuracies and that there has been an inconsistent approach in determining the amount of outdoor space needed leading to the submission of the appeal. Furthermore, the Council failed to acknowledge the planning history of the site, failed to reference Policy ENV11 within their report whilst quoting Policy ENV11 in the reason for refusal, and failed to reference Policy ENV15 or the Supplementary Planning Document – Design and Sustainable Development Planning Guidelines (SPD), which are material to the proposal.
4. In response, the Council states that it acknowledged that development plan policies do not set a quantitative requirement for the provision of open space, but an experienced and qualified planning officer reached the decision based on a qualitative assessment exercising their professional judgement. The Council state that they have explained why other schemes do not provide justification for the proposal and that as a result their approach has not been inconsistent, with the planning history considered. The Council further state that it is clear from their evidence the conflict with Policy ENV11 and that they have considered Policy ENV15 but did not consider it material to the determination. As a result, the Council does not consider that it has been shown to have

behaved unreasonably, nor has it been demonstrated that the applicant has incurred unnecessary or wasted expense in pursuing the appeal.

5. Although I have found in favour of the applicant with regard to one of the main issues in my main Decision, the Council's Officer Report and Statement of Case detailed its position with reference to the most relevant development plan policies. It also considers other developments in adequate detail providing reasons why they considered that the proposal differs from them. The Council's evidence clearly states that they have assessed the outdoor space on a qualitative basis, and it was not unreasonable for the Council to reach a different view in relation to this main issue.
6. With regard to the sites planning history, the Council's Officer Report references this including the consents for garages. It was not unreasonable for the report to focus on comparisons with the previous reason for refusal given that the application sought to address this. Moreover, the Council explained the reasons why it found the proposal to be unacceptable.
7. While Policy ENV11 was not the subject of detailed assessment in the Council's Officer Report, conflict with the policy is nonetheless clear and it does not form the sole policy to which it found conflict. Although I have found Policy ENV15 and the SPD to be relevant, I have also found that the proposal overall is contrary to them. Furthermore, the SPD is referenced in the Council's Officer Report under the Development Plan Policies section.
8. The applicant may disagree with the Council's assessment and decision. However, this does not mean that the Council acted unreasonably in refusing planning permission. The appeal provided an opportunity for the applicant to test the position and explain their case. In my view the Council's Officer Report and Statement of Case considered other proposals, the site history and produced evidence to support their decision in relation to the effect of the proposal upon the character and appearance of the area and on the provision of outdoor space. Furthermore, I have found in the Council's favour in my main Decision in relation to the effect on the character and appearance of the area.
9. In light of the above, I do not find that the Council acted unreasonably or inconsistently by refusing planning permission. They made an informed assessment of the proposal adequately justifying their concerns related to relevant development plan policies and the planning history for the site.
10. Accordingly, I conclude that unreasonable behaviour in procedural or substantive terms resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.
11. The application for a full award of costs must fail.

C Rose

INSPECTOR