The Planning Inspectorate

Costs Decision

Site visit made on 25 June 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2024

Costs application A in relation to Appeal Ref: APP/D1265/W/23/3331139
Golden Acre Holiday Park, Mount Lane, Eype, Bridport, Dorset DT6 6AL

- 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 A. Speed of Wool Limited for a full award of costs against Dorset Council.
- The appeal was against the refusal of planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

Costs application B in relation to Appeal Ref: APP/D1265/W/23/3331139
Golden Acre Holiday Park, Mount Lane, Eype, Bridport, Dorset DT6 6AL

- 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 Dorset Council for a full award of costs against A. Speed of Wool Limited.
- The appeal was against the refusal of planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

Decision

1. Costs application A for an award of costs is refused.

2. Costs application B for an award of costs is refused.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, 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 application A

4. The appellant's application for costs relies to a substantial extent on whether the Council behaved unreasonably by not permitting the mitigation payment to be secured other than by a planning obligation under Section 106 of the Town and Country Planning Act 1990, by returning cheques provided by the appellant and failing to adequately explain why the payment could not be secured under Section 111 of the Local Government Act 1972 (s111).

5. The appellant provided the Council with examples of other local planning authorities who were doing so and case law which they say, demonstrated that the Council had the power to accept their payment under s111.

6. I have been provided with a copy of the appellant's notes of a meeting held with the Council on 15 May 2023. Whilst the Council say that these are not the approved minutes, they do not dispute the content of the note.

7. It is clear that there was a difference in opinion between the appellant and the Council which was not resolved during that meeting. However, it is also clear from those notes and the copies of various emails between the parties that I have been provided with, that the Council made their position clear to the appellant, and that the matter had been considered by the Council's legal representative who had had regard to relevant case law.

8. It is also clear from those notes that there was an impasse between the appellant and the Council which they considered would only be solved through the appeal process.

9. I therefore conclude that the Council's position was not an unreasonable one and for the reasons set out above, an appeal could not have been avoided.

Costs application B

10. The Council's application for costs relies to a substantial extent on whether the appellant was unreasonable in seeking to appeal the Council's decision without the required legal obligation being in place.

11. The appellant accepts that a financial contribution was required in order to mitigate the effects of the development on the SPA, SAC and Ramsar. Providing a signed planning obligation as required by the Council would have prevented the need for the appeal.

12. However, this point is at the centre of the appellant's case. The appellant has provided evidence of other instances where local planning authorities have accepted mitigation payments in the absence of a signed legal obligation. In light of that evidence, the appellant was not unreasonable to expect that the Council would do the same.

13. It is clear from the notes of the meeting between the Council and the appellant on 15 May 2023 that there was an impasse between the appellant and the Council which they considered would only be solved through the appeal process.

14. I therefore conclude that the appellant's position was not an unreasonable one and for the reasons set out above, an appeal could not have been avoided.

Conclusion

15. Whilst the accompanying decision letter sets out the reasons why it was not necessary for me to conclude on the matter in dispute between the two parties, I do not find that it was unreasonable for either party to expect that I would.

16. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated in either application. For this reason and having regard to all matters raised, no award of costs in relation to applications A and B are justified.

Alison Fish

INSPECTOR