



Costs Decision

Site visit made on 4 June 2024

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2024

Costs application in relation to Appeal Ref: APP/D1265/W/24/3339145 27 Old Castle Road, Weymouth, Dorset DT4 8QE

- 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 Nehalennia Ltd for an award of costs against Dorset Council.
 - The appeal was against the refusal of planning permission for development described as demolish existing dwelling & erect 2no. dwellings without complying with conditions attached to planning permission Ref WP/19/00552/VOC.
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Decision

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

Reasons

2. 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.
3. From the evidence before me, the Council did work with the applicant during the application lifecycle and there was an exchange of emails before the decision was made. I note the applicant criticises the content of the Council's emails and it is good practice for the Council to work pro-actively with applicants. However, I have not been made aware of any statutory requirement for a Council to pre-warn an applicant of the detail and outcome of a planning application once it is lodged and before a decision is formally issued.
4. The Council offers a pre-application service to discuss development prior to formal submission. They explain that this is the process where matters can be discussed, and schemes amended prior to submitting a planning application. There is limited evidence before me to suggest the applicant accessed this service.
5. The reasons for refusal are set out in the Council's decision notice of the planning application and are complete, precise, specific and relevant to the planning application. harm is identified and the reasons are also linked to the policies of the development plan and are expanded upon in the Council's delegated report and statement of case.
6. The impact of the development proposal on the character and appearance of the area was a matter of planning judgement with the benefit of a site visit. The reasons for refusal have been adequately substantiated by the Council in evidence and I do not consider them to be unsupported by objective analysis, vague or unbalanced. While I ultimately disagreed with the Council, I consider

that the Council had reasonable concerns about the impact of the proposed development which justified its decision.

7. The applicant refers to errors in the Council's statement of case. I have looked at these, but the applicant has provided no further commentary and it is unclear what material errors the applicant is referring to.
8. I do note an elevation was incorrectly referred to as 'southern' in the Officer report. However, this was referring to the detailed design of this elevation and it has not been shown that this goes to the heart of the Council's concerns. Moreover, it is clear from the evidence before me that the principal objection from the Council concerned the scale and bulk of the proposed development. While the detailed design of the elevation exacerbated the harm, in the Council's opinion, this was not their fundamental objection in evidence.
9. The applicant prepared an analysis, three dimensional models, diagrams and statement of case to support their appeal. As indicated above, parties in planning appeals normally meet their own expenses and, in this case, given my findings above, it has not been clearly demonstrated that unreasonable behaviour has occurred.

Conclusion

10. As a result, having considered the above, I conclude that unreasonable behaviour by the Council, as described in the Guidance, has not been clearly demonstrated. Therefore, unnecessary or wasted expense has not been incurred by the applicant. Consequently, the application for an award of costs is refused.

N Praine

INSPECTOR