



Costs Decision

Inquiry held on 11-12 and 16-19 December 2024

Site visits made on 10 December 2024 and 9 January 2025

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 21st May 2025

Costs application in relation to Appeal Ref: APP/D1265/W/24/3348224

Knoll House Hotel, Ferry Road, Studland , Dorset , BH19 3AH

- 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 Kingfisher Resorts Studland Ltd for a partial award of costs against Dorset Council.
 - The appeal was against the refusal to grant planning permission for Redevelopment of existing hotel to provide new tourist accommodation including: 30 hotel bedrooms, apartment and villa accommodation and associated leisure and dining facilities.
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Decision

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

The submissions for Kingfisher Resorts Studland Ltd

2. The costs application was submitted in writing.
3. The applicant suggests that the Council has been unreasonable in three material ways.
4. Firstly, that the Council has been procedurally unreasonable in failing to engage in the Statement of Common Ground (SoCG) process and has set out a chronology of correspondence to the Council. Secondly, that there has also been unreasonableness in relation to tree impacts and thirdly, the Council raised a number of issues related to market housing in its planning Proof of Evidence when the proposal was never intended to be market housing, which has consistently been communicated to the Council in a number of documents.

The response by Dorset Council

5. The response was made in writing.
6. The applicant's costs application appears to be brought on the basis that there were matters which have now been addressed "relating to drainage, ecology, dog walking and lighting" which were avoidable. These were all matters that were dealt with via the separate topic-based SoCGs on ecology and Habitats Regulations Assessment (HRA)/recreational matters.
7. The criticism directed at the planning SoCG entirely ignores the facts that (a) separate and specific SoCGs were directed to be prepared and (b) the Council's respective expert witnesses extensively engaged in those SoCG processes with the applicant's consultants.

8. It was entirely necessary to question the proposed use of the villas and apartments in the Council's evidence.

Reasons

9. 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.
10. The applicant argues that the Council only engaged in the SoCG process in the week leading up to the Inquiry despite the deadline imposed (13 November 2024). Indeed, my post-Case Management Conference (CMC) Note reflected the willingness, at the time, by both parties to prepare separate, topic-based SoCGs in advance of the preparation of Proofs of Evidence. Clearly, that did not happen.
11. Nevertheless, even though it took until close to the opening of the Inquiry, the issues between the parties were narrowed to the extent that a significant amount of Inquiry time was saved. I acknowledge the delay in the Council's engagement meant that agreement on matters of drainage, ecology, dog walking and lighting were not addressed in SoCGs earlier on in the process. However, they were dealt with in the SoCGs on ecology and Habitats Regulations/recreational impacts in advance of the inquiry. Whilst obviously frustrating for the applicant, time spent by the respective consultants was necessary to resolve these issues in advance of the Inquiry and followed directions I gave to prepare topic specific SoCGs, albeit that they did not adhere to the deadlines set out in my CMC Note.
12. Those involved would have spent time on these tasks regardless of whether it occurred sooner or later in the process. Consequently, I do not see how the delay in and of itself had any bearing on that necessary work and thus do not find there to have been abortive work. In addition to this, it naturally follows that the planning SoCG could not be finalised until the aforementioned matters had been narrowed and/or agreed upon. Therefore, even if I found the Council's behaviour to have been unreasonable, I am not persuaded that the applicant has incurred wasted expense.
13. In relation to lighting, the Council set out its position in email correspondence to the applicant in January 2024. This made clear that further information was considered necessary and was reflected in the reasons for refusal by reference to a lack of 'adequate details'. Only once the applicant had submitted new lighting modelling information, did the Council consider the matter could be the subject of a suitably worded planning condition in the event the appeal was allowed. Given the importance of preventing unacceptable light spill, it seems evident to me that there was a deficiency in the information which led to the Council's reasonable request for that further information. This work could have been completed well in advance of the appeal at application stage.
14. At the Inquiry, matters related to the impacts on trees were dealt with by a round table session. During the discussions, the Council's expert witness suggested mechanisms to alleviate the Council's concerns in relation to the Oak tree, in particular. The format of a round table session is very different to the formal presentation of evidence. It is Inspector-led and invariably involves discussion that seeks to elicit information from one or other participants. It has a much less rigid format where the parties' respective views are explored and issues teased out. It

can naturally be expected that solutions may be tabled that are not wholly reflective of what has previously been submitted in written evidence. Notwithstanding any of this, a suggestion by the Council's witness to a particular problem does not constitute unreasonable behaviour and given it was done so within the format of a planned round table session, the applicant cannot have incurred wasted expense.

15. In its evidence, the Council raised the matter of the proposed use of the villas and apartments. This stemmed from the applicant having ticked the 'market housing' box on the application form which clearly led to confusion. By the time of the start of the Inquiry the matter still had not been resolved. It seems perfectly reasonable to me for the Council to have sought to address the issue of whether part of the proposed development would fall within a C3 use and the concomitant issues that would have had in terms of likely significant effects on the Dorset Heathlands. Indeed, it would have been a key issue for me to address had the appeal been allowed.
16. Taking all of this into account, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

H Baugh-Jones

INSPECTOR