



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

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Dorset Council for a partial award of costs against Kingfisher Resorts Studland Ltd.
- The inquiry was in connection with an appeal against the refusal of 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.

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

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions for Dorset Council

2. The costs application was submitted in writing.
3. The appellant has acted in a substantially and procedurally unreasonable way when discussing the restrictions that might have allayed the applicant's concerns in relation to the Use Class of the proposed villas and apartments. The appellant failed to properly engage with the applicant on this matter. Had the appellant done so, Mr Rendle's attendance at the Inquiry would not have been required.

The response by Kingfisher Resorts Studland Ltd.

4. The response was made in writing.
5. The applicant's characterisation of the position is unjustified and misconceived. There had been extensive attempts to contact the applicant and negotiate the planning obligation. It was because of the applicant's lack of engagement that the applicant submitted a Unilateral Undertaking rather than an Agreement.

Reasons

6. 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.
7. At the Inquiry, the parties' respective cases that related to Habitats Regulations Assessment (HRA) were framed around the use of the proposed villa and apartment accommodation. The application form and the appellant's Operations Report are contradictory in terms of the proposed use of those elements of the

- scheme. That Report clearly sets out that the villas and apartments would have a C1 Hotel use.
8. I note the correspondence between the parties' respective lawyers. The appellant has set this out in order to demonstrate a lack of engagement by the applicant. Nevertheless, the contentious HRA/Use Class matter was not something that could be resolved purely by lawyer input. Rather it was reliant on agreement being reached by the witnesses, Mr Rendle and Dr Brookbank on a suitable mechanism to control the use of the villas and apartments insofar as that use did not result in likely significant effects on the Dorset Heathlands though further recreational pressure. That agreement was not forthcoming.
 9. The appellant has continually stressed that there has never been an intention for the villas and apartments to be anything other than tied to the C1 use of the other part of the hotel scheme. However, the appellant took the decision not to advance the use of a planning condition restricting the use to C1 or to amend the application. It was put to me at the Inquiry that retaining a distinction between the various elements of the scheme was for funding reasons. However, that is not a matter related to planning.
 10. Furthermore, the appellant continued to promote that distinction by referring to the villas and apartments as 'holiday accommodation' or, later on, as 'temporary sleeping accommodation'. It is unclear why there has been a reticence by the appellant to make a clear commitment either by way of an agreed planning condition or through the Unilateral Undertaking, to a C1 use.
 11. I find that there could have been greater engagement by the appellant in the resolution of this matter in advance of the Inquiry. Had that course of action been taken, it is highly likely that the applicant would not have needed to prepare a Proof of Evidence or give oral evidence. The appellant's behaviour has been unreasonable and has caused the applicant wasted expense.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Kingfisher Resorts Studland Ltd shall pay to Dorset Council, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the preparation of Mr Rendle's Proof of Evidence and preparing and dealing with HRA evidence heard on Day 3 of the Inquiry; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The applicant is now invited to submit to Kingfisher Resorts Studland Ltd, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

H Baugh-Jones

INSPECTOR