
Costs Decision

Site visit made on 26 September 2016

by David Hogger BA MSc MRTPI MCIHT

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 October 2016

Costs application in relation to Appeal Ref: APP/E1210/W/16/3153435 The Fountain, 1-3 High Street, Christchurch, Dorset BH23 1AE

- 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 Mr A Brown for a full award of costs against Christchurch Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a new detached building to provide flexible commercial space at ground floor with 8 residential flats above.
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Decision

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

Preliminary Matter

2. The Costs Application (on page 2, above sub-section 1) refers to 'a full award of costs'. However, the rebuttal to the Council's response, in the first paragraph, refers to a 'partial award of costs'. The penultimate paragraph of the rebuttal confirms that the appellant is not seeking costs in respect of Reasons 2 and 3 of the decision letter. I have therefore considered the Costs Application in terms of a partial award.

Reasons

3. Irrespective of the outcome of the appeal, costs may only 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.
 4. The appellant (Mr A Brown) considers that Councillors made an unsubstantiated decision on the planning application which was contrary to the views of Officers. It is claimed that the Council failed to: properly assess the submitted documentation; assess the planning history of the site (including the advice offered by planning officers); take into account the requirements of NPPF paragraphs 60 and 138; and justify reason 1 in the decision letter.
 5. The Council confirms that Members are not required to accept an officer's recommendation; that the reasons for the refusal are clear; and that the Minutes of the Committee Meeting demonstrate that consideration was given to a range of relevant matters.
 6. It is clear that the appellant had engaged constructively with Council Officers prior to the current planning application being submitted and I understand that
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there may have been some optimism regarding a successful outcome for the appellant, particularly as there appeared to be 'Member in principle support for a building on the site that did not provide for a mock Tudor design'.

7. However, Members are not obliged to accept the advice of officers and the fact that the Members disagreed with the officers is not in itself a reason to award costs, provided I am satisfied that the reasoning of the Members was sound. In that respect the Minutes of the Planning Control Committee (7th April 2016) indicate that matters of concern were raised in the debate, for example in relation to the impact of the proposed development on the conservation area and the street scene; and the design and appearance of the proposed building. The debate included contributions from, among others, two local Ward Members and I have no reason to believe that they are not very familiar with the site and its setting and therefore well able to draw their own conclusions regarding the acceptability of the proposed development. Although in matters of appearance and design there is likely to be a level of subjectivity, there is no evidence that would lead me to conclude that decision of the Committee was not reasonable.
8. Reference is made by the appellant to comments made by Members regarding an earlier proposal for the site (ref: 8/14/0251). However, I have not seen all the details of the earlier scheme or all the relevant documentation and therefore can give little weight to any expectations that the appellant may have had in this regard.
9. The appellant refers to paragraphs 60 and 138 of the NPPF. These relate to the contribution of a site to, in this instance, the CCCA and to ensuring that architectural styles or particular tastes are not imposed. There is no substantive evidence that the Council is trying to impose a particular style of building – rather it is seeking to ensure that the proposed development would make a positive contribution to local character and distinctiveness.
10. Bearing in mind my own conclusions on the proposal I am content that the reasons given by the Members for refusing the planning application are justified and that they interpreted and applied the relevant national advice and adopted development plan policies in an appropriate way.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

David Hogger

Inspector