
Costs Decision

Site visit made on 23 November 2016

by Elizabeth Hill BSc(Hons), BPhil, MRTPI

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

Decision date: 16 December 2016

Costs application in relation to Appeal Ref: APP/Q1255/W/16/3152811 22-24 Recreation Road, Poole, Dorset, BH12 2EB

- 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 Poole Council for a full award of costs against Mr Lee Cutler.
 - The appeal was against the refusal of the Council to grant planning permission to sever the rear gardens of 22 and 24 Recreation Road and erect two pairs of semi-detached houses, utilising amended access from 22 Recreation Road to provide access and parking.
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Decision

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

Reasons

2. 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. The Council considers that the appellant has behaved unreasonably in respect of failing to support a substantive issue, by not providing full and detailed evidence about the issues arising from the merits of the proposal. Turning first to whether the appellant has behaved unreasonably, the PPG gives examples at paragraph 16-053-20140306 of the types of behaviour which might constitute behaviour which would give rise to an award of costs against the appellant, although the list is not exhaustive. It is based around whether or not the appeal or a ground of appeal has a reasonable prospect of succeeding.
4. The Council claims that the appeal has not been supported by full and detailed evidence, instead relying on the Design and Access Statement submitted with the application. However, all of the documents submitted with the application are considered as part of the appeal and the appellant is entitled to rely on the original application in addition to his written statement and final comments on the appeal. His appeal documents respond to the reasons for refusal and although the Council finds the examples of other developments locally not relevant to the case, it is open to the appellant to indicate examples of what he considers to be comparative cases.
5. The appellant has cited parts of the relevant development plan policies in the Design and Access Statement which support his case but not policy DM1 of the Poole Site Specific Allocations and Development Management Development Plan Document, which covers design including layout and amenity. However,

although not specifically mentioning that policy, he has set out his views on the adequacy of the private amenity space for the proposed dwellings. The proximity of the recreation ground to the proposal is a benefit which the appellant is entitled to point out, even though I have found that in this case it does not overcome the requirements of policy DM1 for on-site provision.

6. Paragraph 16-028-20140306 of the PPG requires full and detailed evidence to be submitted with an appeal and I consider that the appellant has done his best to substantiate his case through the material submitted with the planning application, his written representations and final comments. I note that he has worked with the Council to try and produce an acceptable scheme for the site. He has also complied with the procedural advice on appeals through the timely submission of appeal material and not caused any delay to the process.
7. Despite the Council having limited resources, I am mindful that paragraph 16-028-20140306 of the PPG states that parties are normally expected to meet their own expenses for appeals and I am of the view that this should be the case for this appeal.
8. Therefore I conclude that unreasonable behaviour resulting in unnecessary expense has not been demonstrated and the application fails.

E A Hill

Inspector