
Costs Decision

Site visit made on 3 January 2017

by David L Morgan BA MA (T&CP) MA (Bld Con IoAAS) MRTPI IHBC

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

Decision date: 25th January 2017

Costs application in relation to Appeal Ref: APP/G1250/W/16/3156454 7, Warren Edge Road, Bournemouth BH2 6BE

- 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 A.J. Developments Ltd for a full award of costs against Bournemouth Borough Council.
 - The appeal was against the refusal of planning permission to demolish of existing building and erect block of 8 apartments with parking bin and cycle storage.
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Costs application in relation to Appeal Ref: APP/G1250/W/16/3156458 7, Warren Edge Road, Bournemouth BH2 6BE

- 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 A.J. Developments Ltd for a full award of costs against Bournemouth Borough Council.
 - The appeal was against the refusal of planning permission to demolish of existing building and erect block of 8 apartments - revised.
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Decision

1. The application for an award of costs in respect of both appeals is refused.

Reasons

2. The Appellant submits that the Council has acted unreasonably in that both schemes were permissible in light of adopted planning policy, namely: a) the principle of flatted development in this location was fully justified in light of the NPPF and Policy CS21 of the Bournemouth Local Plan: Core Strategy (2012) seeking urban intensification of sites in sustainable locations, b) the design of the proposed schemes both respected and enhanced the evolving character and appearance of the Warren Edge Close that incorporates flatted development and domestic size dwellings, c) The appearance of the buildings retained proportions that accord with neighbouring dwellings and was in accordance with Policy CS41 that requires developments to be well designed and of a high quality, d) the positioning of both schemes would positively respect the amenities of neighbouring occupiers by reason of avoiding harmful overlooking, or creation of an overbearing relationship, e) parking provision can easily be accommodated on both schemes that accord with the Council's parking standards, and will not prejudice neighbouring amenities or discourage pedestrian and cycle usage in the area and f) where the Council has refused planning permission, it has done so without evidence or actual clarity of the issues leaving the appellant to guess the harm suggested.

3. The National Planning Practice Guidance (PPG) advises that, 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 PPG also makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. It is the case that there are differences in the reasoning and emphasis of the reasons for refusal set out on each of the decision notices issued in respect of each scheme. This is most apparent in respect of highway matters. Indeed, it is the case (as I have found in my determination of the appeals) that elements of the Council's objections in regard to these matters may, in respect of the revised scheme in particular, be resolved through conditions.
6. However, the key substantive matters of effect on character and appearance and living conditions of adjacent occupiers remain common to both decisions. Here the Council has set out its reasons, both in the officer report and again in their statement of case as to why, when judged against the policies of the development plan and their adopted guidance, they held the two schemes to be in conflict with them. In each case the Council has set out in some detail (for example distances are set out to demonstrate the letter of conflict with guidance on residential amenity) where they feel harm may result. They have then followed this through with appropriate reference to policy and guidance. Whilst in the case of Appeal No.2 I have disagreed with the Council in respect of all their reasons for refusing it, I found no need to 'guess the harm suggested', this was clearly and unambiguously set out in their evidence.
7. The Council's conclusions may not have accorded with those of the appellant on these matters. However, that is not a substantive basis for concluding they have acted unreasonably. Rather, they have exercised reasonable planning judgement and tested both proposals against the policies of the development plan. There can be no basis here therefore to suggest the appellant has been put to any unnecessary expense in pursuing the appeals.
8. For the above reasons the application is refused and no award is made in respect of either appeal.

David Morgan

Inspector