
Costs Decision

Site visit made on 9 January 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: 10 February 2017

Costs application in relation to Appeal Ref: APP/E1210/W/16/3158361 4 Grove Road East, Christchurch, Dorset BH23 2DQ

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr P Higgins for a full award of costs against Christchurch Borough Council.
 - The appeal was against the refusal of planning permission for development described in the application form as the 'severance of the plot and erection of detached bungalow with associated access and parking'.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, the Planning Practice Guidance (the 'Guidance') sets out that 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.¹
3. The appellant's case for a full award of costs is in relation to substantive matters, and is essentially that the permission should clearly have been granted by the Council given the nature of its surrounding context.² This is the subject matter of the appeal, and it is therefore unnecessary to repeat at length here the consideration given to these matters within the appeal decision.
4. It is important to note that the effect of a proposal on the character and appearance of an area, or in respect of the living conditions of occupants of nearby properties, is inherently a matter of planning judgement rather one that can be settled with exact metrics. Consequently I address in this costs decision whether or not the Council have demonstrated that their position in respect of the development proposed was based on robust reasoning.
5. The Council acknowledges the mixed character of the area surrounding No 4 Grove Road East and the presence of some dwellings located directly behind others facing carriageways within the officer report associated with application Ref 8/15/0715 and within their statement of case at appeal. Distinctions are drawn in these documents between the immediate vicinity of the appeal site

¹ Reference ID: 16-028-20140306.

² With regard to Guidance Reference ID: 16-049-20140306.

and the pattern of development in the wider area. Indeed consideration is therein given to the parallels that the Council consider may be drawn from the various cases that the appellant has cited in support of the proposal.

6. I address this matter in particular at paragraphs 13 and 14 of the appeal decision, and within the latter identify that there are material differences between the nearest comparable form of development permitted to that proposed via the appeal. Moreover permission was refused for development within the rear garden of No 4 at appeal previously.³
7. Whilst there are differences between the proposal to which the appeal relates and previously unsuccessful appeals, in my view neither the planning history of the appeal site, nor development permitted elsewhere, is so significant or directly comparable with the appeal proposal to indicate that the development proposed via application Ref 8/15/0715 should have been granted permission.
8. Notwithstanding that I have reached a different view to the Council as to the merits of the development proposed, in the light of the above it cannot reasonably be said that the development proposed should clearly have been granted permission by the Council. The Council reached a view on the merits of the development proposed having thoroughly considered relevant evidence, and in my view suitably explained their approach in so doing.
9. For the above reasons, and having taken account of all other matters raised, I am not of the view that unreasonable behaviour resulting in unnecessary expense has been demonstrated. I therefore conclude with reference to the approach in the Guidance that an award of costs is not justified in this instance.

Thomas Bristow

INSPECTOR

³ Ref APP/E1210/A/10/2125801 and APP/E1210/A/10/2128321