

Costs Decision

Site visit made on 15 November 2016

by Alwyn B Nixon BSc MRTPI

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

Decision date: 16 February 2017

Costs application in relation to Appeal Ref: APP/G1250/C/16//3153013 236 Old Christchurch Road, Bournemouth BH1 1PE

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Dimitri Eikosipentarchos for a full award of costs against Bournemouth Borough Council.
 - The appeal was against an enforcement notice alleging: without planning permission:- change of use of first and second floors to a House in Multiple Occupation (HMO) sharing communal facilities.
-

Decision

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

Reasons

2. The Planning Practice Guidance 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. For the reasons explained in my appeal Decision I have concluded that the Article 4 Direction issued by the Council continues to have effect, notwithstanding that it does not include wording referring to any Order subsequently replacing the provisions of the Town and Country Planning (General Permitted Development) Order 1995. Since I have concluded that the Council was correct in concluding that a material change of use to a HMO had occurred and that this constituted a breach of planning control, I find that the Council's reliance on the Article 4 Direction in deciding to pursue action against the appellant did not constitute unreasonable behaviour.
 4. Turning to the planning merits of the development in question, whilst I have decided to allow the appeal on ground (a) and grant planning permission, I have found that the Council took a reasonable and adequately thorough approach in determining whether or not the development in question was in conflict with policy CS24 of the Bournemouth Local Plan Core Strategy. For the reasons I have given, I consider that the Council was correct in concluding that the HMO use in question did not accord with the development. Although I have found that the degree of conflict in this case is slight, and that other material considerations exist which are sufficient to indicate a determination otherwise than in accordance with the plan, I do not consider that the Council's decision to pursue enforcement action lacked reasonable foundation. Its wish to regulate the level of concentration of HMOs in a locality, in order to promote
-

balanced communities, is plainly ratified and supported by its development plan.

5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Alwyn B Nixon

Inspector