
Costs Decision

Site visit made on 7 February 2017

by Mike Fox BA (Hons) DipTP MRTPI

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

Decision date: 17 February 2017.

Costs application in relation to Appeal Ref: APP/G1250/D/16/3164806 54 Queens Park West Drive, Bournemouth, BH8 9DD

- 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 and Mrs M Simpkins for a full award of costs against Bournemouth Borough Council.
 - The appeal was against the refusal of planning permission for first floor extension over garage.
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Decision

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

The submission for Mr and Mrs M Simpkins

2. The submission does not make specific reference to the paragraphs in the Government's Planning Practice Guidance (PPG) other than to refer to the procedural elements as set out in paragraph 035 and the ability of Inspectors to make awards of costs where they have found unreasonable behaviour as set out in paragraph 036. The Appellants' grounds are 'substantive' as opposed to 'procedural', as explained in paragraph 031 of the PPG.
3. The Appellants' main grounds for costs are that (i) the reason for refusal fails to specify the actual alleged harm of the proposed development on the character and appearance of the area or to neighbouring amenities (living conditions); (ii) the local planning authority has failed to take into account the prevailing pattern of development; and (iii) the local planning authority has based its refusal on the generic principles of its Design Guide, which as supplementary planning guidance predates *the Framework* and is inconsistent with it and therefore should be afforded little weight. Paragraphs 59 and 60 of *the Framework* are referred to, which state that design policies should avoid unnecessary prescription or detail and should not attempt to impose architectural styles.

The response by Bournemouth Borough Council

4. In terms of procedure, the Council contacted the Appellants' agent several times to request additional information to enable the Council to assess the proposal. The Council's concerns were made clear to the Appellants at this time, together with the Council agreeing to extend the determination period to enable the Appellants to submit amendments to the proposal.
5. In response to grounds (i) and (ii), the reasons for refusal were detailed within the decision notice and further explained within the Council's officer report; in

response to ground (iii), the Design Guide was formally adopted in September 2008, following a period of public consultation. The design principles set out in the Guide remain relevant to the appeal and accord with the design principles within *the Framework*. In particular, the Council aims to secure high quality design, in accordance with paragraph 58 of *the Framework*.

Reasons

6. Paragraph 030 of the PPG advises that costs may be awarded against a party who has behaved unreasonably, thereby causing the party applying for the costs to incur unnecessary or wasted expense in the appeal process.
7. Regarding grounds (i) and (ii), the Council clearly articulates its reasons for refusal in its Decision Notice. Its officer report explains the reasons why it considers that the design is unacceptable and why the scheme would impact on the living conditions of the next door occupiers at no. 52. Part of this report (in particular paragraph 7) considers the proposal within the context of the prevailing pattern of development, including the use of the term 'pattern of development'. As such, I conclude, in relation to the first two grounds, that the Council's reasoning is clear and is sufficiently detailed within its report to justify its reasons for refusal. Therefore I find no grounds for costs here.
8. Turning to ground (iii) concerning the Council's reliance on the Design Guide, I consider that firstly, the use of design guides, or design codes is supported in paragraph 59 of *the Framework*. Whilst I accept that such guidance should not be unnecessarily prescriptive, the paragraph invites local planning authorities to issue guidance in relation to: "*overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the area more generally*". In my judgment, the Council's Guide addresses the relevant criteria in the above list, without going into unnecessary detail.
9. In response to the Appellants' contention that the Guide should have very limited weight due to its age, paragraph 211 of *the Framework* states that age of itself is not critical to whether plans should be considered out of date, whilst paragraph 215 states that due weight should be given to policies in existing plans, according to their degree of consistency with *the Framework*. Two other factors are relevant here. Firstly, the Guide was subject to public consultation, which accords with good practice, and secondly, the Council's Core Strategy, which was adopted after *the Framework*, contains a design policy, CS41, which makes clear in its explanatory text that this policy is linked closely to the Design Guide (paragraph 4.6.16) and reinforces the relevance of the Guide in addressing design issues at a more detailed level than would be appropriate for inclusion in a Core Strategy.
10. Taking all of the above considerations into account, I conclude in relation to the third cost ground that the Council's Design Guide should be afforded substantial weight, and I therefore find no grounds for costs here.
11. I therefore find that unreasonable behaviour or wasted expense, as described in the PPG, has not been established. On this basis, I conclude that an award of costs is not justified.

Mike Fox INSPECTOR