

Costs Decision

Site visit made on 15 May 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 15 June 2017

Costs application in relation to Appeal Ref: APP/Q1255/W/17/3167094 84 Rosemary Road, Poole BH12 3HB

- 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 J Grennall, Grennall Ltd for a partial award of costs against Poole Council.
 - The appeal was against the refusal of planning permission to demolish existing garage/outbuildings and erect a detached bungalow.
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Decision

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

Reasons

2. Planning Practice Guidance 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 expense in the appeal process. Furthermore, it indicates that Local Planning Authorities will be at risk of an award of costs being made against them if they prolong the proceedings by introducing a new reason for refusal or where they prevent or delay development which should clearly be permitted.
 3. In this application, the applicant asserts that the Council has acted unreasonably in refusing permission and by introducing a new reason for refusal relating to the effect of the development on the living conditions of future and neighbouring occupiers.
 4. While I acknowledge that the Council has made reference to the above matters and has introduced Policy PSC31 in its written evidence, none of which formed part of the reasons for refusal set out in its decision notice, no robust case has been put forward which has necessitated the need for any detailed response - as is borne out by the limited response provided by the appellant. Furthermore, the outcome of the appeal has not in any material way been affected by the inclusion of those matters and they have not resulted in any particular delay.
 5. While I acknowledge that in responding to the Council's case, the appellant has had to expend additional time and effort, the appellant's response has not necessitated the need for any further detailed assessment or anything more than a rebuttal of the Council's assertions. In my view, the additional work involved in responding to those matters is 'de minimus'.
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6. Furthermore, although my decision makes clear that I do not agree with the Council on the main issue, its reasoning was both cogent and clear and not entirely without merit. Additionally, I am mindful that at the time of determination, the necessary mitigation in respect of the Council's second reason for refusal had not been secured which would in itself have provided justifiable grounds to refuse the application.
7. Accordingly, I do not find unreasonable behaviour on the part of the Council in this instance. .

Conclusion

8. For the above reasons, I conclude that an award of costs is not justified.

Rory Cridland

INSPECTOR