
Costs Decision

Site visit made on 21 June 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 18 July 2017

Costs application in relation to Appeal Ref: APP/E1210/W/16/3165478 12 to 14 Glenville Road, Walkford, Christchurch BH23 5PY

- 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 Atkins of Harlequin Homes for a full award of costs against Christchurch Borough Council.
 - The appeal was against the refusal of planning permission for the erection of 2 No 3 bedroom houses.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The Planning Practice Guidance (PPG) 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. The application has been made in a timely manner as required by the PPG. The PPG also explains that unreasonableness may be either: procedural – relating to the process; or substantive – relating to the issues arising from the merits of the appeal.
3. The planning application had been recommended for approval by the Council's planning officers. With respect to the main issues identified within my appeal decision I have agreed with that recommendation and allowed the appeal. However it does not follow automatically that the Council has acted unreasonably. The Planning Committee of the Council is not obliged to accept the recommendations of their officers. The PPG makes clear that the aims of the costs regime includes encouraging local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case and not to add to development costs through avoidable delay.
4. The Planning Committee report presented a detailed explanation of why planning permission was recommended for approval. The constraints of the site had resulted in revisions to the scheme. Officers had carefully assessed the proposals including the impact upon neighbouring living conditions as well as the character and appearance of the area. The main parties were clearly co-operating with each other. The Council up to that point were looking for solutions rather than problems as required by the National Planning Policy Framework.

5. The minutes of the Planning Committee indicate that as well as considering the views of an objector at the meeting, Councillors did debate the application. However whilst the broad areas of concern are indicated, there is little detail about what specific aspects of the proposal were considered to cause potential harm.
6. The Council did submit an appeal statement and this provided some extra explanation of the concerns of the Planning Committee members. There was some explanation of the difference between other backland developments and the appeal proposal, for example. However I still found that many of the concerns were vague and generalised which made it difficult for me to understand precisely what the concerns were. Concerns about loss of privacy for instance were not well reasoned when there is already significant mutual overlooking in a tight knit area and when the Council has recently approved a 2 storey dwelling in a similar position.
7. It was not adequately substantiated why the well reasoned recommendation from professional planning officers was overturned. This is contrary to the advice in the PPG. I consider that it demonstrates unreasonable behaviour by the Planning Committee in reaching the decision to refuse the planning application.
8. The appellants were advised by professional consultants through the entire processing of this appeal. This appeal process has therefore lead to the incurring of their fees.
9. I consider that the refusal of planning permission was not well founded. Unreasonable behaviour resulting in the unnecessary and wasted costs as described in the PPG has been demonstrated. A full award of costs is justified.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Christchurch Borough Council shall pay to Mr Atkins of Harlequin Homes, the costs of the appeal proceedings described in the heading of this decision such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to Christchurch Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

A Harwood

INSPECTOR