
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: 19 July 2017

Costs application in relation to Appeal Ref: APP/E1210/W/17/3166787 The White House, 428 Lymington Road, Highcliffe BH23 5HF

- 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 B Turner for a full award of costs against Christchurch Borough Council.
 - The appeal was against the refusal of planning permission for a proposed development to “demolish existing buildings and erect block of 10 flats”.
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Decision

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

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 PPG also explains that unreasonable may be either: procedural – relating to the process; or substantive – relating to the issues arising from the merits of the appeal.
3. The application for costs has been made before the final comments stage of the appeal process. This is within time for the purposes of the costs procedures.
4. The planning application the refusal of which lead to the appeal, had been recommended for approval by the Council’s planning officers. The Planning Committee of the Council is not obliged to accept the recommendations of their officers. The PPG makes clear however that the aims of the costs regime include 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.
5. I found the Council’s reason for refusal had mixed up the issues that I have subsequently separated out in to the main issues within my decision. This defect was not unreasonable as I, as well as the appellant have understood the position of the Council. The Council’s position was further elaborated upon in a statement of case which helped me to understand the reasons for refusing the planning application.
6. The Planning Control Committee minutes do not provide much detail about the discussion that Councillors undertook before voting contrary to the officer’s

advice. However, within the officer's report, the sensitivity of the proposal in relation to light and outlook is described. In this regard the recommendation was made "on balance" indicating that this matter was not clear cut.

7. Furthermore, both the Council's and the appellant's appeal statements refer to the discussions at the committee meeting. It is clear that some Councillors noted that they would be in a better position to support the scheme if it had been supported by a daylight assessment. This indicates to me that Councillors had picked up on a sensitive aspect of the proposals and that in the absence of evidence to inform them, they could not support the proposal. That seems to me to be a very rational and reasonable approach. I considered the proposal would have a harmful impact upon the living conditions of neighbouring dwellings which affirmed part of what was alleged within the reasons for refusal.
8. Within my decision, I have agreed with the appellant's view of the impact upon the character and appearance of the area. There was some, albeit limited, analysis of the Council's case on this matter which helps to demonstrate that it was not an irrational decision to refuse planning permission. Some generalised assertions were made. However, the judgement in relation to the impact upon the character and appearance of the area was not unreasonable.
9. Whilst the Council's case could have been clearer, I do not agree with the applicant's view that they had to guess what specific harm was being alleged. The information provided by the Council enabled me to understand their position. The information also helped me to understand that the decision was not reached irrationally.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not justified and the application fails.

Andy Harwood

INSPECTOR