



Costs Decision

Site visit made on 14 August 2017

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 24th August 2017

Costs application in relation to Appeal Ref: APP/G1250/W/17/3175383 631 Christchurch Road, Bournemouth BH1 4AP

- 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 Strata Homes for a [partial] [full] award of costs against Bournemouth Borough Council.
 - The appeal was against the refusal of planning permission for the change of use of the first and second floor into five self contained flats.
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Decision

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

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs can be awarded against a party who has behaved unreasonably and thereby caused the costs applicant to incur unnecessary expense in the appeal process.
3. The applicant's case is substantive in nature. For substantive matters, the PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Importantly, any unnecessary costs identified must relate to the appeal process.
4. The appellant contends that it has prepared a Transport Assessment at some cost that confirmed that a zero parking provision at this location could be justified on highway grounds but that the local planning authority through its highway advisors did not provide any credible counter evidence. The Council merely provided copies of two appeal cases in support of its stance. The appellant in turn submitted yet another appeal case that gave a contradictory view on a case which it believed was directly comparable in that it was also an existing Class D2 use. The lack of any coherent and demonstrable evidence from the Council has meant that the appellant has incurred unnecessary expense in pursuing this appeal.
5. For the Council, it explained that the site at 631 Christchurch Road is not readily comparable to the Ashley Road site other than the nature of previous use. It contends that customers of the town centre site would inevitably have parked in public car parks within the town much in the same way as shoppers

to the high street. There would be no such opportunities available to customers of Ashley Road. The setting therefore is considered very different.

6. Although I have agreed with the appellant in the appeal that the fall-back position is an important consideration, there is substance in the Council's opinion of the two sites and their differences. Moreover, it has an established Core Strategy policy on parking that is supported by a Parking Supplementary Planning Document. Moreover, the Council was able to demonstrate that further afield beyond the 100m radius required for assessment, there are parking pressures. Whilst I agreed with the appellant that the town centre car parks provides the opportunity for residents to park close to the appeal property, I do not believe that the Council can be criticised from adopting the stance that costs may be prohibitive for some. This is of course countered by the sustainable location of the appeal site.
7. Finally the matter of the design of the cycle parking has also been raised by the applicant. However it also clear to me that the Council has been prepared to negotiate this matter and a compromise was reached before I visited the appeal site. The Planning Practice Guidance encourages ongoing discussions so that the appeal proposal can deal with outstanding matters of concern. By the same token I also noted that the matter of the Unilateral Undertaking was only satisfactorily dealt with after the appeal was lodged. I do not believe that the Council acted unreasonably in relation to the cycle storage requirements.
8. In conclusion, although I can understand the applicant's frustration at the Council's decision on the planning application, I find that on the substantive grounds, the Council did not act unreasonably. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated.

Gareth W Thomas

INSPECTOR