



Costs Decision

Site visit made on 24 November 2017

by Andy Harwood CMS MSc MRTPI

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

Decision date: 15 December 2017

Costs application in relation to Appeal Ref: APP/G1250/W/17/3179765 91 Alumhurst Road, Bournemouth BH4 8HR

- 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 Mrs L Turner for a full award of costs against Bournemouth Borough Council.
 - The appeal was against the refusal of planning permission for the conversion of hotel to a house in multiple occupation (existing unauthorised).
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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. This application has been made in a timely manner.
3. The applicant states that the Council's behaviour in dealing with the appeal and the planning application has delayed the development. That is not the case as the development was undertaken anyway without the planning permission. However, the applicant is still entitled to the planning application and appeal being considered in a reasonable manner by the Council.
4. The PPG makes it clear that the aims of the costs regime includes encouraging local planning authorities to properly exercise their development management responsibilities and to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case. The applicants evidence in this application relates to the substance of the first reason for refusal, the evidence presented in support of it by the Council and the effect of previous appeal decisions. According to the PPG advice, it was necessary for the Council to produce evidence to substantiate each reason for refusal on appeal and not to rely upon vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
5. The Council's argument that the area around the appeal site has a tourism function was not well supported through the submitted evidence. In the appeal decision, I have referred to the lack of precision and detail of the evidence. The costs rebuttal provides some elaboration upon the evidence but still provides loose descriptions of the type of accommodation rather than precise evidence. In the absence of such evidence it was necessary for me to reach my own view from what I saw. My view is similar to comments that the

Council has made in previous appeal procedures and also those of a previous Inspector in the Enforcement Notice appeal in 2015¹. There is no dispute within the evidence of the main parties or in my mind that Alum Chine is a high quality holiday destination. Linking visitors to accommodation within the local area was not however adequately demonstrated and inferences were made from surveys which do not stand up to objective analysis.

6. There is justification for re-assessing the impact upon the character of the area and its tourism function since the previous appeal rather than just accepting the Inspector's comments. Each appeal is determined on its merits, taking account of evidence available and presented at that time. There was however very little to indicate to me that circumstances in terms of the character of the area had changed since the previous appeal. The PPG states that local authorities are at risk of an award of costs if they persist in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable.
7. The adoption of the Tourist Accommodation Supplementary Planning Document² (TSPD) was a material change in circumstances. Following this, the Council acknowledging that the property is not viable for holiday use, was helpful. However, in relation to the impact upon the character and tourism function, the TSPD has made little apparent difference to the way in which the matter has been considered by the Council. The potential in some areas for Houses in Multiple Occupation to cause harm in the terms covered by the TSPD and Bournemouth Local Plan Core Strategy have not been in dispute. However the vague assertion that this development has caused and will continue to cause harmful impacts in this area was not well supported by evidence. The Council's point that whilst the development has been in operation in breach of planning control, rent has been received from occupants does not justify the way in which the Council has dealt with this case.
8. In conclusion, the first reason for refusal which was the primary reason for the planning application being refused was not well substantiated contrary to the advice in the PPG. This was unreasonable and has directly resulted in the submission of the appeal. The appellant was represented by a planning consultant and has incurred wasted expense in the form of professional fees in the course of fighting the appeal.

Costs Order

9. 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 Bournemouth Borough Council shall pay to Mrs L Turner, 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. The applicant is now invited to submit to Bournemouth 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.

Andy Harwood

INSPECTOR

¹ APP/G1250/C/15/3016557

² adopted April 2016