
Costs Decision

Site visit made on 24 October 2017

by J E Tempest BA(Hons) MA PGDip PGCertHE MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 26th January 2018

Costs application in relation to Appeal Ref: APP/E1210/W/17/3179380 2 Amberwood Drive, Walkford, Christchurch BH23 5RU

- 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 Robert Govier on behalf of Radmore Homes for a full award of costs against Christchurch Borough Council.
 - The appeal was against the refusal of the Council to grant planning permission for 3 no. single storey dwellings and single detached garage.
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Decision

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

Reasons

2. The Planning Practice Guidance 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.
3. The basis for the application relates to a substantive claim for costs on two principal grounds.
4. The first ground claimed is that the Council prevented or delayed development which should clearly be permitted having regard to accordance with the development plan, national policy and any other material consideration. The officers' report to committee sets out that the proposal is in accordance with the aims of the development plan and therefore the applicant claims the refusal was unreasonable. However, the Committee was entitled to reach a different view from that recommended by the officers. Matters of character and appearance and the extent to which the proposals would affect the amenity of existing residents are matters which call for judgements to be made. The outcome of that judgement would be related to whether or not the proposals were found to meet development plan policies concerned with these matters. In this case, the committee determined the proposals to be harmful in relation to a number of the matters covered by Policy HE2 of the Christchurch and East Dorset Local Plan Part 1 - Core Strategy.
5. The outcome of an application for costs is not dependent upon the outcome of the related appeal decision. However, in this case, I found in reaching my decision on the appeal that the proposals would conflict with the development plan and would fail to satisfy national policy as set out in part of the National Planning Policy Framework. Accordingly, the Council did not prevent or delay development which should clearly have been permitted.

6. The second ground for the applicant's claim is that the Council made vague, generalised and inaccurate assertions about the impact of the proposed development which were unsupported by any objective analysis.
7. With regard to the impact of the development on neighbours, the officers' report to committee makes clear that the access is screened by established planting and that planting is evident to the boundaries of the southernmost part of the site. The report also refers to recent felling and clearance having left the northern boundary clear of planting. I therefore find it cannot be concluded that these matters were not taken into account in reaching the decision, despite the committee reaching a different decision from that recommended by officers.
8. As to whether the Council had regard to the relationship of adjacent properties with the appeal site, the officers' report refers to the recently constructed dwellings whilst the Council's subsequent evidence to the appeal refers to the relationship of the proposals with surrounding developments. Consequently, I find there has been regard to the context and setting of the site. The Council's reason for refusal refers to scale, mass and bulk of the proposed dwellings. Whilst these are not specifically attributed to various elements of the scheme within the reason for refusal, the Council's statement relates these to the sizes of the curtilages proposed and proximity to boundaries. The Council's evidence whilst not detailed is nonetheless sufficient for it to be neither vague nor inaccurate in relation to these matters.
9. With regard to the matter of dealing with waste arising from the proposed development, the Council had found in respect of a recent permission served by the same access that the arrangements for collection from a facility at the end of the access drive were acceptable. Although this matter was the subject of concerns expressed by neighbours, it was unclear from the Council's evidence why these arrangements would be unsatisfactory for the proposed dwellings. Consequently, I consider the Council acted unreasonably in this regard. However, as the appeal could not have been avoided in respect of other determining issues, and given the modest additional evidence submitted to the appeal by the applicant in regard to this matter, I find this has not led to wasted expense.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

J E Tempest

INSPECTOR