
Costs Decision

Site visit made on 9 October 2018

by Andrew Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 31 October 2018

**Costs application in relation to Appeal Ref: APP/G1250/D/18/3209310
23 Clowes Avenue, Bournemouth BH6 4ER**

- 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 & Mrs Robin Kilmister for a full award of costs against Bournemouth Borough Council.
 - The appeal was against the refusal of planning permission for extensions and alterations to the existing dwelling.
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Decision

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

Reasons

2. Planning Policy Guidance advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense.
3. The appellants have made an application for costs on the basis that the Council failed to produce evidence to substantiate its reason for refusal, and that it made vague, generalised or inaccurate assertions about the proposal's impact, unsupported by objective analysis.
4. I am satisfied that the Council's officer report is sufficiently detailed to demonstrate that it carried out an objective and detailed analysis of the proposal. The report considers the various elements of the scheme, with reference to the previous appeal decision. Although the Council clarified that it had no concerns with the majority of the proposals, it is not possible for the Council to issue a split decision. A refusal based on substantiated concerns relating to one element of the scheme is considered reasonable.
5. The appellants have raised concerns about the lack of visibility of the dormer from the wider area and therefore challenge the reasonableness of the decision. However, the Council's assessment considered the impact of the proposal on the character of the existing building and views of the rear of the building from neighbouring properties, as well as its impact on the character and appearance of the wider area. This is expressed in the reason for refusal wording and clarified in the officer report. The reason for the refusal is complete, specific and relevant to the application, supported by the relevant policy of the Bournemouth Local Plan.

6. I do accept that the Council appears to have misunderstood the width of the dormer once extended; referring in the officer report to a width of 13.7 metres, compared with 12.7 metres put forward by the appellants. Although inaccurate, given the sizeable overall width of the dormer, and the clear representations on the proposed plans, I am satisfied that this error was not fundamental to the Council's determination of the scheme.
7. The appellants have expressed concern that the Council had slavishly adhered to its design guidance, which is over 10 years old. Advice contained within the referenced section of the Council's design guide still appears to be relevant, and the Council clearly identified aspects of the design guide that the proposal did not accord with. This is expanded further in the officer's report, where several other concerns were raised relating to the materials, scale, design, fenestration and lack of subservience, which are all reasonable considerations; leading me to conclude that the proposal was judged properly on its own merits.
8. During the processing of the application several emails were exchanged between the appellants and officers of the Council. Views expressed by Council officers are substantiated, and respond to the appellants reasoning in a manner that demonstrates understanding and objective analysis.
9. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Andrew Tucker

Inspector