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## Costs Decision

Site visit made on 20 November 2018

**by J Wilson BA BTP MRTPI DMS**

**Inspector appointed by the Secretary of State**

**Decision date: 14<sup>th</sup> December 2018**

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### **Costs application in relation to Appeal Ref: APP/G1250/W/18/3203757 15 Kingswell Road, Bournemouth BH10 5DF**

- 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 Merley Design and Construction Ltd for a full award of costs against Bournemouth Borough Council.
  - The appeal was against the refusal of an application for planning permission for the erection of a detached dwelling house and 2 no. bungalows with formation of vehicular access and parking spaces (revised scheme).
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### **Decision**

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

### **Reasons**

2. The application is for a full award of costs.
3. The applicants contend that: the Council has behaved unreasonably as members of the Planning Committee ignored the advice and recommendation of their professional officers without evidence of material harm or policies to support their decision; and that the Council has failed to adequately defend their reasons thereby causing an unnecessary appeal.
4. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and that the unreasonable behaviour has caused another party to incur unnecessary or wasted expense in the appeal process.
5. There is nothing unusual or irregular about officers expressing different professional views, and the Head of Planning was entitled to exercise a professional judgement. Equally the Council were entitled to disagree with that recommendation. It is the conclusion of the Planning Committee which is decisive.
6. Having had regard to the particular site specific circumstances, I have found that the proposal would conflict with policies of the Development Plan and the Framework. I have also found that the Council articulated the policy basis for its decision in the reasons for refusal. The interpretation of the policy is a subjective one and requires planning judgement to be exercised. Whilst this is a matter on which the applicant and the Council disagree it does not mean that the basis for the refusal was unsupported or that the Council were manifestly unreasonable in reaching their decision. In this case the Planning Committee

took the view that the revisions to the scheme were insufficient to overcome the concerns identified in the earlier refusal.

7. In any event any application for costs needs to demonstrate clearly the basis for alleged unreasonable behaviour and how this resulted in unnecessary or wasted expense in the appeal process. The costs application does not demonstrate the basis for the unreasonable behaviour other than maintaining a view of that the Councils' decision should not have differed from that of the professional officer. Equally it has not been demonstrated that unnecessary expense in the appeal process has been caused.

### **Conclusion**

8. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense as described in the PPG has not been demonstrated, and an award of costs has not been justified.

*Janet Wilson*

INSPECTOR