The Planning Inspectorate

Costs Decision

Site visit made on 3 January 2019

by J Wilson BA BTP MRTPI DMS

Inspector appointed by the Secretary of State

Decision date:

Costs application in relation to Appeal Ref: APP/Q1255/W/18/3205730
R/O 46, 52, 54 & 56 Abbotsbury Road, Poole, Dorset BH18 9DD

- 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 CR Acquisitions Ltd for a full award of costs against Poole Council.
- The appeal was against the refusal of planning permission to sever land and erect 5 no. 2 bedroom bungalows with parking.

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 and caused them unnecessary and wasted expense by: a) preventing or delaying development that should have been permitted having regard to the development plan; b) by using vague, generalised or inaccurate assertions about the proposals impact which are unsupported by objective analysis and c) by refusing permission on a planning ground capable of being dealt with by conditions. I shall deal with these matters in turn.

4. The Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and where such behaviour has caused another party to incur unnecessary or wasted expense in the appeal process.

Preventing or delaying development

5. The applicants focus on the Councils planning committee report arguing that this provides a detailed analysis of the proposal and concludes that no material harm would result. On this basis the Committee delayed development that should have been permitted and as such this amounts to unreasonable behaviour.

6. There is nothing unusual or irregular about officers expressing different professional views; the Planning Officer was entitled to exercise a professional judgement in making a recommendation. Equally the Council were entitled to disagree with that recommendation. However, it is the decision of the Council that is to be considered at appeal. It is not unusual for planning committee

minutes to be relatively brief; in this case the Council provided further information in support of the Councils decision. This, in itself, did not amount to unreasonable behaviour.

Vague and unsupported analysis

7. The costs claim make detailed comments about the nature of the debate at the meeting. In the absence of clear evidence from either the council or the applicants it is not for me to form a view as to whether that debate was unreasonable or the conclusions which were reached flawed.

8. The Council was not bound to determine the application in accordance with the pre-application advice; on further detailed consideration of the submitted application, the Council found that it could not agree with that conclusion. These issues relate to matters of planning judgement which the Council articulated in its reasons for refusal. While that was clearly inconvenient for the applicants, it does not amount to unreasonable behaviour by the Council.

9. 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 applicants 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.

10. Having had regard to the particular site-specific circumstances, I too found that the proposal would conflict with policies of the Development Plan and the Framework and whilst I acknowledge that the policy circumstances were known to the applicants the weight afforded to the Neighbourhood Plan has changed to a material degree in the intervening period.

Conditions

11. The applicants argue that the third reason for their application for costs relates to the issue of amenity. It is clear to me that the issue of amenity principally relates to the juxtaposition and quantity of the proposed units rather than their relationship with existing properties. In this regard it would not have been possible to overcome those matters through the imposition of conditions.

Conclusion

12. 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. I have not found the Council's behaviour in relation to this decision unreasonable nor has it been demonstrated that unnecessary expense in the appeal process been caused.

13. I therefore conclude that, 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