The Planning Inspectorate

Costs Decision

Site visit made on 8 May 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2019

Costs application in relation to Appeal Ref: APP/G1250/D/19/3220283
48 Harbour Road, Bournemouth BH6 4DE

- 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 S Greenfield for a full award of costs against Bournemouth Borough Council.
- The appeal was against the refusal of planning permission for a two storey front extension and garage conversion for additional habitable space.

Decision

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

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.

3. The application is based on the Council's actions in:

   a) preventing or delaying development which should clearly have been permitted;

   b) failing to produce evidence to substantiate the reason for refusal; and

   c) inconsistency in decision-making.

4. The PPG indicates that local planning authorities are at risk of an award of costs if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations and/or if they fail to produce evidence to substantiate each reason for refusal.

5. There was only one reason for refusal, and the Council's decision notice set out completely, precisely and specifically the elements of the design that it considered to be unacceptable. It also set out the policy of the development plan and other guidance which it considered the proposal would conflict with. This reason has been adequately substantiated by the Council in its Officer Report, which explains how Officers arrived at their conclusion, and identifies the policy and guidance on which they relied.

6. The Planning Practice Guidance says that where local planning authorities have exercised their duty to determine planning applications in a reasonable

manner, they should not be liable for an award of costs. Whilst I have decided that the appeal should be allowed, that decision relied on the exercise of a certain amount of subjective judgement. I do not agree that the Council acted unreasonably in refusing the application. Therefore, I conclude that the Council has not acted unreasonably with regard to the first two matters.

7. The PPG indicates that local planning authorities are at risk of an award of costs if they fail to determine similar cases in a consistent manner. The applicant refers to a recent development near the appeal site at 76 Baring Road, which was approved without delay under the same development plan policy and design guidance. It is suggested that this development is so similar to the appeal proposal that it was inconsistent for the Council to have approved one and refused the other.

8. I viewed 76 Baring Road at the time of my site visit and saw that it included a pair of gables fronting the road. However, the overall design differs significantly from the appeal proposals and, being a corner plot, its context is different as well. The 2 schemes are not so similar that it was unreasonable for the Council to determine the application on its own merits. That is how I arrived at my decision to allow the appeal. Consequently, I find that the Council has not acted unreasonably with regard to consistency in decision-making.

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Nick Davies

INSPECTOR