The Planning Inspectorate

Costs Decision

Site visit made on 26 February 2019

by I Bowen BA(Hons) BTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2019

Costs application in relation to Appeal Ref: APP/Q1255/W/18/3206813
69-77 Rosemary Road, Poole BH12 3HA

- 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 R Atkins, Harlequin Homes for a full award of costs against the Borough of Poole Council.
- The appeal was against the refusal of planning permission to sever the land and erect 8 dwellings to the rear with associated access and parking.

Decision

1. The application for a full award of costs is allowed in the terms set out below.

Reasons

2. The applicant submits that, in overturning the highways and planning officers' recommendation to grant planning permission, the Planning Committee members failed to give adequate consideration to their professional advice. It is further submitted that the Committee failed to consider relevant planning policies and guidance and did not provide substantive evidence to show the development would give rise to an unacceptably harmful impact.

3. The National Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.

5. I do not concur with the applicant's contention that members failed to afford appropriate weight to the [2012] Framework which stated that development should only be prevented on transport grounds where the residual impact would be severe. That is because the current Framework clarifies that the Policy intends that the "severity" test applies only to the operation of the road network, not highway safety.

6. Nonetheless, whilst the Committee is not bound to follow the advice of officers, it is necessary to clearly state the planning grounds on which a proposal is considered unacceptable and to provide clear evidence to substantiate its decision. In this case, the published minutes merely show that the Committee had concerns relating to the width of the access. It was further resolved that it

was inadequate for the number of dwellings that were proposed and this would be harmful to highway safety.

7. In the context of the professional highways officer having advised that the scheme would be served by safe and adequate access, the Committee's resolution does not amount to compelling evidence that harm would arise to the extent that it was necessary to refuse permission.

8. The principal differences between the access as it currently operates and the proposed arrangement would be the increased numbers of cars using it and an extension to the refuse bin collection area near to the road junction. The LPA's appeal statement purports to add further justification for the highways refusal reason in these respects, citing relevant development plan and national planning policies. However, it provides no clear evidence as to the effect of the additional volume of traffic that would use the drive associated with a net increase of seven dwellings (taking into account the extant planning permission at No 67). Similarly, no clear basis is provided to justify the assertion that the refuse bin storage would lead to an unacceptably increased risk to pedestrians and to the wider road network through cars being forced to reverse into the highway on refuse collection days.

9. It appears to me that having regard to the Development Plan, national planning policies and other material considerations, the LPA should reasonably have granted planning permission for the proposed development. Its failure to do so therefore constitutes unreasonable behaviour and the applicant has been faced with the unnecessary expense of lodging the appeal.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Borough of Poole Council shall pay to Mr R Atkins of Harlequin Homes, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The applicant is now invited to submit to the Borough of Poole Council, to whose agent a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Ian Bowen

INSPECTOR