



Costs Decision

Site visit made on 8 May 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2019

Costs application in relation to Appeal Ref: APP/Q1255/W/19/3222113 Jade, 2 Delhi Close, Poole BH14 9NH

- 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 Park Place Properties Limited for a partial award of costs against Poole Council.
 - The appeal was against the refusal of planning permission for alterations and extension to existing apartments to provide 6 additional 2 bedroom apartments and remodelling of existing apartments 1, 4 and 6.
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Decision

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

Reasons

2. The Planning Practice Guidance ('the 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. Paragraph 049 of the PPG provides examples of reasons where an award of costs against a local planning authority might be warranted. Awards can be made on procedural grounds, that is related to the process, or substantive grounds, that is relating to the issues arising from the merits of the appeal.
4. Here, the appellant has made an application for a partial award of costs, relating to the case put forward by the Council on arboricultural grounds. The case is made on procedural and substantive grounds.
5. The Council took an extraordinary length of time to process the planning application. Although there were a variety of reasons for this, the Council was largely responsible for the delays. Despite this length of time, the evidence shows that the first time that the Council's Senior Arboricultural Officer (SAO) raised the issue of the effect of the proposal on trees with the applicant was very close to the expiry of the agreed time extension. This was many months after the application had been submitted and gave the applicant little time in which to address the matter within the agreed extended time frame.
6. Prior to this, there was no reference to tree-related issues in an e-mail from the Council to the applicant, dated the 18 December 2018, nor does the evidence of a meeting between the two parties on the 4 January show this.

7. Although a detailed assessment of the tree issues was sent by e-mail to the Senior Planning Officer by the SAO on the 6 February 2019, there is no evidence to show that this was sent to the applicant prior to the lodging of appeal. Whilst this was posted on the Council's website from the 8 February 2019, this was after the appeal was lodged and the appellant would have had little reason to look at this website.
8. Therefore, when the appeal was lodged against the failure to determine the application, it was understandably made in response to those points that had been set out formally by the Council. Given the many months that the Council took in its assessment of the application, it clearly had the opportunity to raise the tree issues at a far earlier date. Had this been done, the appellant would have had the opportunity to address this.
9. There appears to have been a conversation between the SAO and the appellant's arboricultural consultant, regarding trees on the site, after the appeal was lodged. However, there is no firm evidence before me to show that this included any formal notification that this matter would be a ground that the Council would raise in the appeal. In any event, the appellant had submitted its statement by this time.
10. In this regard, I find that the Council acted unreasonably. However, it still has to be demonstrated that this resulted in the appellant incurring unnecessary or wasted expense.
11. Although the issue of the effect on trees was a brought up very late, the Council put forward a rational and well-reasoned case regarding the effects that it felt the proposal would have on protected trees on the site. I did not find its case to be frivolous and agreed with it in respect of the harm that would be likely to arise to tree T1. Although I disagreed with its findings on trees T2 and T3, finding in favour of the appellant on these, the Council demonstrated and substantiated its concerns in an appropriate manner.
12. Therefore, the Council demonstrated that the issue of the effect of the proposed development on trees on the site was one that needed to be addressed, and set out its position appropriately.
13. Although, its actions at the application stage led to long delays and the issue regarding trees was raised at a late stage, I do not find that these resulted in unnecessary or wasted expenditure at the appeal stage. For this reasoning, no award is made.

Roy Curnow

INSPECTOR