
Costs Decision

Site visit made on 31 August 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2019

Costs application in relation to Appeal Ref: APP/G1250/W/19/3220970 Southwood Lodge, 36-40 Southwood Avenue, Bournemouth BH6 3QB

- 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 Elliot Heron Ltd for a partial award of costs against Bournemouth Borough Council.
 - The appeal was against the refusal of planning permission for the conversion, extension and change of use of existing care home to 17 apartments.
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Decision

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

Reasons

2. Planning Practice Guidance advises that costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Planning Practice Guidance states that examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. The applicant states that there was a lack of evidence and policy support for the Council's reasons for refusal. However, I found the reasons for refusal and the subsequent statements from the Council to be thorough and reasoned, concluding against planning policy.
5. I recognise that some of the judgements made by the Council were to some extent subjective, but they were reasoned and assessed against planning policy. It is also not unreasonable behaviour to have to apply some level of subjectivity to issues such as consideration of design and issues of outlook for example.
6. It also seems logical to me that if the Council were set to refuse the application on certain grounds, then continuing with the legal agreement process would not be beneficial. However, the Council has been clear what would be necessary with a legal agreement to overcome the issues relating to the Dorset Heathlands and affordable housing, which has been beneficial with the subsequent appeal process.

7. With regards the scheme approved at Florence Road, I recognise that there are some similarities with the proposal at Southwood Avenue, but there are also differences which means that the decision made by the Council is on the merits of the proposal before them. I do not regard this as unreasonable behaviour.
8. I understand that there were delays at the planning application stage, but it seems that extensions to the time limit had been agreed. Whilst there may have been a quick decision by the Council which the applicant did not expect, this is not a case of unreasonable behaviour from the evidence before me. It is clear from the reason for refusal that the Council had a number of concerns with the proposal at this stage. I am not convinced that further time would have resulted in the approval of the planning application, thereby avoiding the necessity for an appeal.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

S. Rennie

INSPECTOR