



Costs Decision

Site visit made on 10 September 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2019.

Costs application in relation to Appeal Ref: APP/Q1255/W/19/3227656 311 - 313 Wimborne Road, Poole BH15 3DH

- 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 Mars Investments Ltd for a full award of costs against Poole Council.
 - The appeal was against the refusal of planning permission for demolition of the existing buildings and the erection of a mixed-use development comprising 25 x residential units and 2 x retail units with associated access.
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Decision

1. The application for costs is refused.

Reasons

2. National Planning Practice Guidance (the Guidance) advises that, costs may only 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 appeals process.
3. The Guidance further sets out that parties in planning appeals and other planning proceedings normally meet their own expenses. Additionally, the Guidance is clear that an application for costs will need to clearly demonstrate how any alleged unreasonable behaviour has resulted in unnecessary or wasted expense.
4. The appellant claims in this instance that the Council has not undertaken an objective analysis in its decision to refuse planning permission and has failed to produce any evidence to substantiate the reasons for refusal, relying instead on vague, generalised or inaccurate assertions about the proposal's impact.
5. The appeal application was recommended for approval by the its professional officers. Authorities are not bound to accept the recommendations of their officers, but if their professional or technical advice is not followed, then reasonable planning grounds for taking a contrary decision need to be provided.
6. In respect of the first reason for refusal, the potential effects of the proposal on the character and appearance of the area is a largely subjective judgement. Notwithstanding that I have agreed with the appellant in this instance, given the scale, contemporary design ethos and prominent position of the site, I consider that it was reasonable for the members of the committee to have exercised planning judgement in reaching its views in this regard. The reason

for refusal identifies the particular areas of concern and the relevant Development Plan policy with which the proposal would conflict.

7. In respect of the second reason for refusal, the proposal would result in tension with the parking requirements set out in the Development Plan policy linked to the Parking SPD¹. Whilst I do not consider the acknowledged shortfall to be so great or prejudicial to highway safety, considered in the round with the other highway alterations proposed, it is not unreasonable that the committee exercised reasonable planning judgement and departed from the officer's professional advice in respect of highway safety.
8. Whilst the minutes of the meeting and Council's statement of case are succinct, the members' concerns with the proposal are clearly articulated and set against the relevant Development Plan policies on which they were entitled to rely.
9. Accordingly, there is no substantive evidence that demonstrates that the Council have behaved unreasonably in relation to their consideration and determination of the appeal application. The appellant's costs in mounting the appeal were therefore not unnecessarily incurred. For these reasons, an award of costs is therefore not justified.

Hollie Nicholls

INSPECTOR

¹ Parking & Highway Layout in Development Supplementary Planning Document (Adopted 2011)