
Costs Decisions

Site visit made on 16 December 2019

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 13th January 2020

Costs application in relation to Appeal A Ref: APP/Q1255/W/19/3236435 7 Station Approach, Broadstone, Poole BH18 8AX

- 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 Charles Hoskins for a partial award of costs against Poole Council.
 - The appeal was against the refusal of planning permission to extend the rear of the existing restaurant kitchen and make internal ground floor alterations, to provide toilets for the restaurant and improved seating and to construct a first floor flat over the kitchen area, with access from an existing staircase that serves the existing first-floor accommodation and the proposed new flat at the rear.
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Costs application in relation to Appeal B Ref: APP/V1260/W/19/3236438 7 Station Approach, Broadstone, Poole BH18 8AX

- 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 Charles Hoskins for a partial award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for to erect a two-storey rear extension to accommodate extensions to restaurant at ground floor and creation of new flat at first floor (revised scheme).
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Decision

1. The applications for costs in respect of both Appeal A and Appeal B are refused.

Preliminary Matter

2. On 1 April 2019 the three administrative areas of Bournemouth, Poole and Christchurch were formed into a single Unitary Local government district. Appeal A was determined in March 2019 by the Borough of Poole Council and Appeal B was determined in July 2019 by the Unitary BCP Council. I am therefore dealing with the both costs claims as against Bournemouth Christchurch and Poole Council.
3. The proposals are for the same building and the second relates to revised proposals; the costs claims are identical for both submissions and I shall deal with them on that basis.
4. The application for costs was made in writing and within the time requirements,

Reasons

5. Planning Practice Guidance (PPG) advises that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary expense in the appeal process. It is an accepted principle that parties in planning appeals normally meet their own expenses. An award of costs does not extend to indirect losses and this includes any delay in obtaining planning permission.
6. The applicant contends that the Council has behaved unreasonably by:
 - a) refusing permission that wholly meets the requirements of adopted planning policy;
 - b) alleging harm to the adjacent Conservation Area due to inadequate bin provision when the planning officer handling the case did not hold a specialist qualification and alleging there was no policy justification and no objection from the Environmental and Consumer Protection Services was made; and
 - c) being put to additional expenses, costs and delay in resolving the matter which has led to unnecessary work as part of the appeal procedure.

I shall take these matters in turn.

7. The Council referred to the policy basis for their decision in the reasons for refusal. Whilst this involved subjective judgements, the Council was entitled to reach those judgements in the context of the adopted policies.
8. Appeals A and B alleged harm to the CA and the applicant is critical that the decision lacked the benefit of a commentary from a conservation officer and also alluded to the fact that the case officer lacked a specialist qualification. However, in many instances, a well-reasoned response can be provided by a planning officer in relation to relevant planning matters which is then authorised on behalf of the Council; this is not uncommon. It was not necessary for the planning officer to hold a specialist qualification to reach an informed planning judgement on policy or wider issues. A costs claim is not justified on the basis the applicant considers the planning officer is not suitably qualified or disagrees with the Council in its planning judgement.
9. The appellant argues that the Conservation Area Management Plan supports modern design and the appeal represents a bespoke solution. The Council was entitled to disagree with the applicant, and I have separately formed my own judgement on the design. However regardless of my findings on the appeals, reaching a different conclusion to that of the appellant does not represent unreasonable behaviour on the part of the Council.
10. The applicant argues that Appeal B referred to inadequate bin storage with no objection from the Environment and Consumer Protection Services and the case officer recommended refusal on the basis of alleged harm which was not challenged by a Senior Planning Officer nor was it backed up by additional representations. It is the role of the planning officer to consider the proposal in the light of the development plan policy and the proposal before them and it is not necessary for responses to be received from all consultees in order to reach a professional judgement. I have no evidence to demonstrate that the Councils

assessment did not address relevant issues or was reached inappropriately. Partial costs are sought in relation to the first reason for refusal which relates to Car Parking provision and access arrangements and the effect on parking stress in the surrounding area thereby impacting on highway safety.

11. The PPG makes it clear that any application for costs needs to clearly demonstrate the basis for alleged unreasonable behaviour and how this resulted in unnecessary or wasted expense in the appeal process. Whilst the appellant argues partial costs are justified in relation to the Councils position on parking stress I have not been provided with evidence which would lead me to conclude that this involved unreasonable behaviour on the part of the Council.
12. As the PPG makes clear that costs are awarded where unreasonable behaviour has been found and that this has resulted in wasted expense. As I have not found unreasonable behaviour it is not necessary for me to consider the matter of unnecessary or wasted expense.

Conclusion

13. In the light of the above findings I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated and therefore an award of costs has not been justified.

Janet Wilson

INSPECTOR