The Planning Inspectorate

Costs Decision

Site visit made on 9 October 2019

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2020

Costs application in relation to Appeal Ref: APP/G1250/W/19/3231541
30 Malvern Road, Bournemouth, BH9 3AQ

- 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 L and Mr V Dodd for a partial award of costs against Bournemouth Borough Council.
- The appeal was against the refusal of on an application for planning permission for erection of a first floor extension to the existing house and the erection of a detached 2 storey dwelling with provision of off road car parking and garden (revised scheme).

Decision

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

Preliminary Matter

2. The applicants' costs application was made against Bournemouth Borough Council. However, I am aware that on 1 April 2019, Bournemouth Borough Council ceased to exist and became part of a new Unitary Authority known as Bournemouth, Christchurch and Poole Council, I have proceeded on this basis.

Reasons

3. 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 thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

4. The applicant considers that there was unreasonable behaviour by the Council for the reasons considered below, which resulted in the appellant having to incur unnecessary or wasted expense in the appeal process.

5. The National Planning Policy Framework ('the Framework')[1] requires that local planning authorities identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. Further, although the Framework and PPG advise that it is important that all non-designated heritage assets are clearly identified as such, the PPG[2] also advises that the local planning authorities may also identify non-designated heritage assets as part of the decision-making process on planning applications.

[1] Paragraph 190
[2] Paragraph: 040 Reference ID: 18a-040-20190723

6. Also, the fact that a property is identified as a non-designated heritage asset does not necessarily prevent its development. The Framework is clear that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

7. In this case, having regard to the Council's Delegated Report, in particular the 'Site Context' section, it is clear that the appeal property (No 30) was identified as a non-designated heritage asset. Furthermore, the Council's first reason for refusal also clearly explains what the Council considers to be the harm arising from the proposal in respect of the non-designated heritage asset and also refers to Policy CS40 of the Bournemouth Local Plan: Core Strategy (2012) which specifically relates to heritage assets.

8. Although the consultation comments from the Council's Design and Heritage Team were not specifically referenced in the Council's delegated report or available on its website, there is no statutory requirement for this. Nonetheless, these have been provided at appeal and are broadly consistent with the reasoning contained in the Council's Delegated Report. I also note that in this case the Council had identified No 30 as a non-designated heritage asset in determining a previous application at this site.

9. The applicants also argue that No 30 is not a non-designated heritage asset because of the level of alterations and extensions to the original property and its associated plot. However, this is a matter of planning judgement for the decision maker.

10. In light of the above reasons and irrespective of No 30 not being identified on a Local List, it is clear that the Council identified No 30 as a non-designated heritage. Therefore, in accordance with the Framework and the PPG, it has a degree of significance meriting consideration in the planning application process.

11. Given all of the foregoing, I find that the Council did not act unreasonably in this case. Accordingly, it is not necessary to consider the question of unnecessary or wasted expense. I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG has not been demonstrated.

M Aqbal
INSPECTOR