
Costs Decision

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: 4th February 2020

Costs application in relation to Appeal Ref: APP/V1260/W/19/3239328 83 The Grove, Christchurch BH23 2EZ

- 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 Adam Elcock of Elcock Associates for a full award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for the construction of new offices within the parking area.
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Decision

1. The application for costs is refused.

Reasons

2. The application is for a full award of costs and was made in writing within the prescribed period.
3. 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.
4. The applicant contends that the Council has behaved unreasonably by: a) using vague, generalised or inaccurate assertions about the impact of the proposal, unsupported by objective analysis; b) by overturning the professional analysis of its planning and highway advisors taking a contrary view with no supporting evidence; and c) by failing to weigh into the planning balance the Framework requirement to help create conditions in which businesses can invest, expand and adapt; in doing so the Council failed to discharge its obligations.
5. The Council in its decision notice articulated reasons for refusal together with the policy base for them and the nature of their concerns relating to character and appearance and the living conditions of the neighbour, they also made clear in their accompanying statement the rationale for their position.
6. The Council, irrespective of the outcome of the appeal, was entitled to reach a subjective judgement in the context of the adopted policies.
7. It is clear that this application followed an earlier submission and that alterations took place in an attempt by the appellant to overcome the Council's concerns. Notwithstanding the favourable officer recommendation, the Planning

Committee were not bound to accept the advice of their officers, particularly so when an exercise of judgement is required as was the case with this appeal. The Committee articulated reasons for refusal and the policy basis for them. Their subsequent statement makes clear the extent to which a judgement was required, and that the significance of the impact was recognised to be finely balanced. This does not amount to unreasonable behaviour in the context of the PPG guidance.

8. The appellant takes issue with the Council in that it did not appear to weigh into the planning balance the economic benefit of the additional commercial space. The officer report makes clear that the principle of development was not at issue and that development in a sustainable location including employment development is supported. However, this does not mean that it is supported over and above all other policies in the development plan. As such I do not find there to be any evidence which demonstrates unreasonable behaviour on the part of the Council.
9. 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. I have not found that unreasonable behaviour occurred, and it is not therefore necessary for me to consider the matter of unnecessary or wasted expense in the appeal process.

Conclusion

10. In the light of the above findings I have concluded that unreasonable behaviour has not been demonstrated and therefore an award of costs has not been justified.

Janet Wilson

INSPECTOR