
Costs Decision

Site visit made on 11 February 2020

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2020

Costs application in relation to Appeal Ref: APP/V1260/D/19/3242039 116 Wick Lane, Bournemouth BH6 4LT

- 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 and Mrs Wright for a full award of costs against Bournemouth, Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for extensions to front and rear, new roof over new and existing with accommodation therein.
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Decision

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

Preliminary Matter

2. The costs application states that the applicants are seeking a partial award of costs. However, the application goes on to state that all costs in relation to the making of the appeal are being sought. I have therefore treated this as an application for a full award of costs.

Reasons

3. The Planning Practice Guidance (PPG) advises that costs may 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. The PPG also states that examples of unreasonable behaviour by local planning authorities include preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
4. The applicants state that as, in their view, the scheme wholly meets the requirements of the adopted planning policies, accords with the character and appearance of the area and would not harm neighbouring amenities the Council should have approved it in the first instance and avoided the need for the appeal. The applicants also contend that the Council misinterpreted the plans and that the material planning consideration of the neighbouring permission at 118 Wick Lane was not considered and states that the Council did not evidence the harm or explain how the scheme contravened policy.
5. Whilst in my decision on the appeal I have indeed reached a different view to the Council and determined that the application would not cause harm to the character and appearance of the area or to the living conditions of the occupiers of neighbouring dwellings, it does not necessarily follow that the Council have acted unreasonably or caused unnecessary or wasted expense.

6. Whether or not a proposal would cause harm, and therefore fail to accord with the adopted development plan policy, is a matter of planning judgement. The Council has clearly set out their reasons for refusing the application on this basis, using evidence to substantiate these reasons, and have reached a judgement in the way they are entitled to. The Council explored the implications of the scheme at 118 Wick Lane in the Officer's Report and identified a number of differences which they felt supported their decision to refuse planning permission for the scheme before me.
7. The applicants also raised concerns that the Council placed considerable weight on an incorrect measurement. The Council refute this. Irrespective of which measurement is correct, the difference is not such that, in my view, had the Council agreed with the appellant's assessment, the overall outcome would have been any different.
8. Whilst my final conclusions differ from those reached by the Council, the reasons behind the Council's decision are clearly set out and a matter of judgement. In my view evidence to substantiate the reasons for refusal was provided and was supported by objective analysis. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted 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 not justified.

L J O'Brien

INSPECTOR