
Costs Decision

Site visit made on 14 August 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 8 September 2020

Costs application in relation to Appeal Ref: APP/V1260/W/20/3249601 4 Greaves Close, Bournemouth BH10 5EG

- 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 P A Smith for a partial award of costs against Bournemouth, Christchurch and Poole Council.
 - The appeal was against the refusal of outline planning permission for alterations to No 4 Greaves Close and erection of 3 no dwellings.
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Decision

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

Reasons

2. 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.
3. The applicant seeks a partial award of costs in respect of the Council's approach to the loss of a protected tree (T6), which they contend was not initially objected to by the Council but was included in a reason for refusal.
4. Paragraphs 11 to 13 of the Council's officer report set out the sequence of events on this matter. In brief, the Council's Tree Officer initially objected to the scheme due to the loss of another tree (T3) and potential impacts on trees T4 and T5, but raised no objection to the removal of T6 due to its poor condition. That objection was apparently sent to the applicant who responded. A site visit then took place, where the Tree Officer visited the site and reached their own professional judgement that T6 was in good health and made a positive contribution to the area. This led to the Tree Officer updating their comments and objecting to the loss of T6 as well as the impacts on other trees.
5. The Council apparently subsequently removed the Tree Officer's original comments from their website and it is unclear from the evidence before me whether the Tree Officer's amended comments were provided to the applicant. It is not unreasonable however to remove documents that have been superseded, provided that they remain available to view on request.
6. The inclusion of T6 in the reason for refusal may therefore have come as a surprise to the applicant, however the Council's reasoning was clearly set out in the officer report and its subsequent appeal submissions, with reference to specific, relevant development plan policies. It is not unusual for two experts to

reach different conclusions, and it is evident that the Council took the advice of both specialists into account when reaching its decision. The weight to be given to each was a matter of judgement for the Council. As such, I consider that the Council has produced evidence to substantiate its reason for refusal relating to trees, including T6.

7. Consequently, I find that the Council did not behave unreasonably in reaching the conclusion that the loss of T6 would have an adverse impact on the character and appearance of the area. Indeed, I have reached the same conclusion based on the evidence before me.
8. Even if the Council had found otherwise in respect of T6, the evidence before me indicates that it would still have refused the proposed development due to its impacts on other protected trees, and the consequent harm to the character and appearance of the area. Therefore, arboricultural evidence would have been needed at appeal. The applicant has not sought to provide any additional arboricultural information as part of the appeal, instead relying on the report submitted to the Council. Therefore, there is no substantive evidence before me that additional expense has been incurred in defending the applicant's appeal case in relation to trees.
9. The Council's decision also included refusal reasons relating to the impact of the proposal on living conditions and the Dorset Heathlands European Sites¹. As such, an appeal may still have had to be made even if matters relating to T6 had been resolved.
10. Consequently, it has not been demonstrated that the applicant has incurred any unnecessary or wasted expense in relation to the Council's approach to the loss of tree T6 as part of the appeal.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

L McKay

INSPECTOR

¹ Dorset Heathlands Special Protection Area, Ramsar site and Dorset Heaths Special Area of Conservation