
Costs Decision

Site visit made on 7 October 2020

by JP Roberts BSc(Hons) LLB(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 November 2020

Costs application in relation to Appeal Ref: APP/V1260/X/20/3255926 142 York Road, Broadstone, Poole, Dorset BH18 8EY

- The application is made under the Town and Country Planning Act 1990, sections 195, 322 and Schedule 6 and the Local Government Act 1972, section 250(5).
 - The application is made by Mr S Daniels for a full award of costs against Bournemouth, Christchurch and Poole Council.
 - The appeal was against the refusal of an application for a certificate of lawful use or development for the use of a building as a self-contained dwelling.
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Decision and Costs Order

1. The application for an award of costs is allowed. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Bournemouth, Christchurch and Poole Council shall pay to Mr S Daniels, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
2. The applicant is now invited to submit to Bournemouth, Christchurch and Poole Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Reasons

3. The Planning Practice Guidance (the Guidance) 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.
4. On 24 March 2020 the applicant submitted 4 emails to the Council in support of the application for a certificate of lawfulness during the consideration of the application. The emails had attached to them evidence comprising a statutory declaration, bank statements, tenancy agreements and proof of identity, as well as some other evidence. The Council sent acknowledgements which indicated that the emails had been received.
5. Despite this, and for a reason which the Council has not revealed, this evidence was not taken into account in the officer report which led to the application being refused some months later, on 22 May 2020.
6. The Guidance gives examples of behaviour by a local planning authority which might lead to an award of costs against them. One of those examples is providing information that is shown to be manifestly inaccurate or untrue. The

Council maintained that no information had been submitted about the occupiers of the building, when the evidence suggests that it had been, and had not been taken into account by the Council.

7. As I have found that the evidence submitted to the Council established, on the balance of probabilities that the use of the building as a self-contained dwelling was lawful, I consider it likely that the failure of the Council to consider the evidence led to the application being refused, and that had it taken the evidence into account, it is likely that the application would not have been refused, making the appeal unnecessary.
8. That the Council has not sought to defend the application for an award of costs reinforces my conclusion that the Council behaved unreasonably, leading the appellant to incur unnecessary costs in bringing the appeal.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified. The application therefore succeeds.

JP Roberts

INSPECTOR