
Costs Decision

Site visit made on 15 September 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2020

Costs application in relation to Appeal Ref: APP/V1260/W/20/3250257 Park Place, North Road, Poole BH14 0LY

- 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 M Maccarty, Primetower Care Homes Poole Ltd for a full award of costs against Bournemouth, Christchurch and Poole Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for demolition of the existing buildings and the erection of an extra care (use class C2) development consisting of 126 assisted living apartments with a range of support services and facilities including treatment rooms, medical care, accommodation management, restaurant and laundry services.
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Decision

1. The application for an award of costs is allowed, in part, in the terms set out below.

Reasons

2. The Planning Practice 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.
3. Following submission of the application to the Council the appellant reviewed various consultation responses and made changes to the proposal. I understand that the Council did not engage in discussions with the appellant about the acceptability of these amendments. Indeed, revised comments from key consultees such as the urban design officer and highways do not appear to have been made available to the appellant until well into the appeal process.
4. However, it is clear that the Council would have rejected the proposal on design and highway grounds if it had proceeded to a decision. Although the Council's comments in respect of design are largely based upon a comparison to an earlier permission rather than detailed assessment of the appeal scheme, there is enough evidence to explain the Council's concerns. Likewise, although I have not agreed with the Council in respect of the effect on highway safety, the submissions adequately describe and explain the alleged harm. Regardless of the timing, therefore, the appellant would have had to respond to these matters during the appeal process and wasted expense has not occurred.
5. I understand that the appellant was not made aware of the Council's concerns regarding waste collection and refuse storage until the appeal statement stage. It may be that ongoing discussion through the application stage could have

resulted in this issue being addressed prior to any appeal. However, it would still have been necessary to address this at some point, and with regard to the limited extent of the appellant's evidence in respect of this matter, it has not resulted in wasted expense in the appeal process. Likewise, the need to address the effects on European sites would have arisen, regardless of the time that it was raised in the process and the Council's delayed response to my specific questions on this matter.

6. However, I find no meaningful substance to the Council's case regarding the setting of the Civic Centre. Irrespective of my findings as to the effect on the character and appearance of the area, the Council's evidence provides no clear analysis of the extent of the setting of the listed building or the effect of other existing buildings on that setting. Nor is there any substantive rebuttal to the appellant's evidence in this regard.
7. The failure to substantiate the reason for refusal has resulted in unnecessary wasted expense by the appellant in justifying the proposal in respect of its effect on heritage assets.
8. There is no clear assessment in the Council's evidence of any benefits associated with the provision of specialist housing and no explicit analysis of the planning balancing. There is no substantive evidence that, had the Council done this, an appeal would have been avoided. Moreover, as the Council did not make a decision on the application, it is not unreasonable for the submissions to this appeal to be focussed on the alleged harm.
9. I, therefore, conclude that a partial award of costs is justified.

Costs Order

10. 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 M Maccarty, Primetower Care Homes Poole Ltd, the costs of the appeal proceedings described in the heading of this decision **limited to** those costs incurred in connection with the preparation of evidence relating to heritage assets; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. 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.

M Bale

INSPECTOR