



Costs Decision

Site visit made on 3 December 2020

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th January 2021

Costs application in relation to Appeal Ref: APP/V1260/X/20/3254379 14 Links Road, Poole BH14 9QR

- 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 and Mrs Adams for a full award of costs against Bournemouth, Christchurch and Poole Council.
 - The appeal was against the refusal of a certificate of lawful use or development for an outbuilding for a swimming pool and home gymnasium.
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Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance on Appeals (the PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. In summary, the costs application is made on the basis that the Council failed to visit the site during the determination of the application; that in reaching its decision it wrongly made comparisons with development proposed in previous planning applications for the site; that it failed to contact the appellants regarding the size and layout of the proposed building; that it notified neighbouring occupiers of the application; and that the refusal has left the appellants with no option but to appeal leading to a delay in the project and added unanticipated additional professional fees.
4. Paragraph 048 of the PPG provides guidance with regard to cost applications. It states:

'If an appeal in such cases is allowed, the local planning authority may be at risk of an award of costs, if the Inspector or Secretary of State concludes that there were no substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether.'
5. Whilst the Council acknowledges that a site visit was not undertaken, it points to the comprehensive planning history for the site, which it suggests included the information necessary to determine the application. The appellants suggest that a site visit would have allowed for the Council to gain a 'clearer understanding and vision for the development'. This suggests that some form

- of judgement of the merits of the case is required, which is not the case with an application for a lawful development certificate. Much of the assessment in this case is based on the factual information submitted with the application. The Council would have had a degree of understanding or knowledge of the site from the fairly recent planning history. Furthermore, the appellants do not suggest that there has been a material change to the site since the Council's last involvement with it. As such, the Council's determination of the application without a site visit does not demonstrate unreasonable behaviour in this case.
6. The Council acknowledges that neighbour consultation was undertaken in error and, whilst the comments received were summarised in the officer report, these were not considered in the assessment of the proposal. As such, I am satisfied that the Council did not act unreasonably in this regard.
 7. Whilst the Council has compared the size of the proposed building with that proposed in previous planning applications and with the dwelling itself on site, I have concluded that such a comparison is of little relevance to the determination of the appeal. Nevertheless, consideration of the size of the proposed development, the extent of facilities it contains, and its purpose is relevant to the main consideration in this case and requires an element of judgement. The points made by the Council with regard to these matters are not unreasonable or without merit. Indeed, I have found that the footprint of the proposed building would be large and that it would cover a significant portion of the northernmost area of the garden. Whilst I have ultimately disagreed with the Council's conclusions in this case, I cannot find unreasonable behaviour in the Council's evidence overall or, therefore, in the refusal of the application.
 8. Although the Council did not contact the appellants during the consideration of the application, there is no evidence that such correspondence would have resulted in the Council reaching a different decision in this case. This is particularly so as the appellants do not suggest that they would have been willing to amend the proposed scheme in order to overcome the Council's concerns.
 9. In all, whilst I have concluded that the Council's decision in respect of the lawful development certificate application was not well-founded, the evidence provided in support of the Council's decision is not unreasonable and provides adequate justification for the judgement it made in this case. I cannot, therefore, conclude that there were no substantive reasons to justify delaying the determination of the application and better communication with the appellants would have enabled the appeal to be avoided altogether¹.
 10. To conclude, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. Accordingly, an award for costs is not justified.

J Moss

INSPECTOR

¹ Paragraph 048 of the PPG.