
Costs Decision

Site visit made on 26 January 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th February 2021

Costs application in relation to Appeal Ref: APP/V1260/W/20/3256099 25 Oakley Lane, Wimborne, BH21 1SF

- 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 Hector Benjamin Limited 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 to erect a pair of semi-detached houses with on site car parking with new and shared vehicular accesses.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that, regardless of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably and that unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in the consideration of whether or not costs should be awarded. However, in appeals parties normally meet their own expenses.
3. The application for costs follows the failure of the Council to give notice of its decision within the prescribed period. However, the Council has justified its position in relation to its concerns over the proposal in a timely manner through the appeal process. The Planning Officer's Report submitted with the Council's appeal statement sets out the justification for the Council's conclusion in respect of the effect on the Oakley Lane Conservation Area.
4. It is regrettable that the potential conflict with the proposed pedestrian / cycle crossing and Policies PP10 and PP35 were not raised during the pre-application discussions. However, the application for the major housing development North of Merley was submitted prior to the appeal scheme and so the proposal for the crossing was in the public domain. The provision of this crossing is a reasonable concern of the Council which has been justified in the detailed evidence of the highway authority.
5. I have consequently found conflict between the proposal and the development plan. I therefore do not accept that the proposal should have been permitted, or that the Council acted contrary to well-established case law in not granting permission or that it made vague, generalised or inaccurate assertions about

the proposal's impact. Consequently, I find no unreasonable behaviour in these respects.

6. Whilst the Council was unable to display the site notice before the Covid-19 pandemic lockdown commenced, it advised the applicant of this situation. In any event, I have no clear demonstration that the delay led to any unnecessary or wasted expense by the applicant in the appeal process. The subsequent delay in determining the application can, at least in part, be attributed to the disruption caused by the pandemic. I consider that this was an extenuating circumstance and so the delay does not amount to unreasonable behaviour by the Council.
7. The PPG sets out that if it is clear that a local planning authority will fail to determine an application within the time limits, it should give the applicant a proper explanation. From the evidence before me, this was not done, even though the applicant sought the reason for the delay from the Council. However, albeit limited, there was communication between the Council and the appellant during this time. Furthermore, the Council provided its evidence within the requisite appeal timescale. I therefore find no unreasonable behaviour by the Council in this respect.

Conclusion

8. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. The application for a full award of costs is therefore refused.

Martin Small

INSPECTOR