
Costs Decision

Site visit made on 10 May 2021

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 July 2021

Costs application in relation to Appeal Ref: APP/V1260/W/21/3266809 118 Stour Road, Christchurch, Dorset BH23 1JP

- 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 Ms Wendy Lovett for a full award of costs against Bournemouth Christchurch Poole Council.
 - The appeal was against the refusal of planning permission for the erection of a detached office with associated access and parking.
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Decision

1. The application for 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. The PPG provides that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, or by preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
3. The applicant has highlighted that there was a previous planning permission for an office in this location, albeit with some slight differences from that set out with the appeal scheme. They state that there have been no material differences and so the Council acted unreasonably in refusing planning permission.
4. Clearly, it would be frustrating for the applicant in these circumstances. However, it is important to note that the matter of the cycle/bin store was raised since the 2017 decision (assumedly this was not raised at the time of the 2017 planning application), and also there was an objection from the Highway Authority with the latest application.
5. With regards the cycle/bin store, the Council could have checked the planning history before they granted planning permission for the office. However, it was brought to the attention of the Council that the occupants of No 118 was using the store and it had value to them. It was reasonable, in my view, for the Council to consider this matter further.

6. Whilst there appears to be a change in opinion from the Highway Authority with a different professional view of the situation, I would regard it as reasonable for the Council to consider this objection received carefully, especially as it related to safety aspects. Indeed, as can be seen with the Appeal Decision, I have concurred with the latest Highway Authority comments.
7. I note that the Highway Authority comments have come from a different person who has given their professional opinion on the matter, based on the current situation. It is an unfortunate circumstance, but it was not unreasonable behaviour to consider the objection from the consultee, even if it differed from a previous Highway Authority comment.
8. As such, based on the highway issue alone I am not persuaded that the appeal could have been avoided along with the associated costs involved in this process. Based on the access issue, this is not a case where permission clearly should have been granted by the Council and there is also the evidence from the Council before me to sufficiently explain their reasoning.
9. Therefore, I find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

Mr Steven Rennie

INSPECTOR