
Costs Decision

Site visit made on 15 September 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2021

Costs application in relation to Appeal Ref: APP/V1260/W/21/3274130 12 Foxholes Road, Bournemouth BH6 3AS

- 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 P Mellor for a full award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission to demolish existing dwelling and erect block of six apartments.
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Decision

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

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. The Council took a considerable amount of time to determine the application. This has been attributed to staff absence and workload, which is no fault of the appellant, and also the need to obtain further evidence. I note that the requested tree report was provided within 2 days of its request, so that is not justifiable grounds for delay. Nor is any argument around a request for information regarding daylighting to the neighbouring property which was made some 3 months later and was ultimately deemed not to be required.
4. While the appellant was reluctant to agree an extension of time, there is no substantive evidence as to how such an agreement would have facilitated a more timely decision. Nevertheless, while these delays were undoubtedly frustrating and have delayed development, they have not led to wasted expense in the appeal process so an award of costs is not justified on that ground.
5. One of the Council's reasons for refusal relates, in part, to a perception of overlooking from the proposed rooflights. However, the Council concedes within its officer report that they would be positioned so as to avoid any loss of privacy. The inclusion of this reason for refusal is, therefore, somewhat vague and ambiguous. Nevertheless, read as a whole, it is clear that the Council's concern mainly relates to effects on outlook and, therefore, I find that the reason for refusal has been substantiated by evidence.
6. Like the previous Inspector, I have found harm in respect of the Council's other concern about on-site provision of external space. Although in the present

case, I found this to be outweighed by other material considerations, that reason for refusal is, therefore, not unreasonable.

7. Previous schemes at the site alleged no conflict with Policy CS19 of the Bournemouth Core Strategy 2012 that seeks to protect small family dwellings. I understand that the first two schemes, including one subject to a previous appeal, included an individual dwelling within the proposal so this policy would not have been relevant. However, it would have been relevant to the most recent preceding proposal and permission was not refused on that basis. The appellant can, therefore, be justifiably aggrieved that an alleged conflict with Policy CS19 was raised, out of the blue, very close to the determination of the application.
8. However, in the original planning statement, the appellant identified Policy CS19 as a key consideration for the proposal. Regardless of the weight that should be applied to it, then, the need to deal with the policy's requirements was not a complete surprise to the appellant. While, as identified by the Planning Practice Guidance, it can be unreasonable behaviour for a Council not to determine similar cases in a similar manner, Policy CS19 was a relevant, and known, part of the development plan that must be considered. The situation is unfortunate, but I, therefore, find that it was not unreasonable for the Council to raise the matter when dealing with this application.
9. With regard to the above, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

M Bale

INSPECTOR