
Costs Decision

Site visit made on 21 September 2021

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 November 2021

Costs application in relation to Appeal Ref: APP/V1260/D/21/3273332 7 Canford Avenue, Bournemouth BH11 8RU

- 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 and Mrs Davies for a full award of costs against BCP Council.
 - The appeal was against the refusal of planning permission for a single storey rear extension.
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Decision

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

Reasons

2. The Planning Practice Guidance (the 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. Awards may be procedural relating to the appeal process, or substantive relating to issues arising from the planning merits of the appeal. All parties are expected to behave reasonably throughout the planning process, and costs can only be awarded in relation to unnecessary or wasted expense at the appeal. The Guidance makes it clear that costs cannot be claimed for the period during the determination of the planning application, although behaviour of the parties at this time can be taken into account.
3. The application for a full award of costs was made in writing and will not be repeated here in any detail. The appellants seek costs on a number of grounds, considering the unreasonable behaviour of the Council has caused unnecessary and wasted expense in the appeal process. It is considered that the reasons for refusal do not stand up to scrutiny, and that it is unclear whether the case officer undertook a site visit to assess the visual impact of the scheme. The Council also failed to take into account a fall-back situation available through permitted development. The project has been delayed and unnecessary expense has been incurred in having to appeal.
4. For the reasons given in my decision I have found substantive reasons for dismissing the appeal. Whilst the appellants considered the application was refused without clear evidence of harm, the Council substantiated the refusal of the scheme with regard to the impact of the development upon both the host building and upon the character and appearance of the area. The reasons for refusal were precise, with a decision being based upon the available evidence

and upon the requirements of the development plan and national policy and guidance. The Council's decision clearly identified the matters that led to the refusal of the scheme.

5. The Council have confirmed that a site visit was undertaken, and the officer report provides a description of the host building and the area consistent with what I observed during my site inspection. The Council's case was not supported with photographs, but this is not unusual in my experience, nor is it unreasonable behaviour. It is apparent from the officer report and the decision that a thorough assessment of the proposal and its impact upon the host building and upon the area was undertaken.
6. The National Planning Policy Framework encourages parties to take a proactive approach to secure development. In this instance the Council suggested alternative schemes, but for whatever reason neither these nor the permitted development option were pursued by the appellants. Furthermore, any possible extensions available under permitted development rights would be different to the appeal proposal. The decision to pursue a particular proposal would have been one for the appellants to make, as would the subsequent decision to pursue an appeal.
7. The consideration of applications involves matters of judgement that are at times finely balanced based on complex evidence. In this case the proposal raises a number of considerations, and the Council gave a different weight to the issues than the appellants.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

J J Evans

INSPECTOR