



Costs Decision

Site visit made on 28 October 2021

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2021

Costs application in relation to Appeal Ref: APP/V1260/D/21/3281970 23 Northbrook Road, Broadstone, Dorset, BH18 8HD

- 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 Ben Franklin for a full award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission to form linked rear and side extension and provide new habitable space within the roof.
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Decision

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

Reasons

2. Planning Practice Guidance (Practice Guidance) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The Appellant's application for costs raises substantive points. The Practice Guidance states that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate their reasons for refusal.
4. The Appellant contends that the local planning authority did not exercise their duty to consider the application in a reasonable manner and that their decision was not based on clear planning grounds supported by evidence. The local planning authority thus prevented development which should have been permitted resulting in the Appellant incurring the unnecessary or wasted expense of an appeal.
5. My findings that the appeal proposal was unacceptable was based on the evidence presented by the local planning authority, the policies of the development plan and National Planning Policy Framework, the representations submitted by interested parties and my own observations on site. It was also based on the judgements I applied to the evidence before me, all of which led to my overall findings that the appeal proposal would result in the overlooking of the rear garden to 19 Mission Road (No.19) and was therefore unacceptable.
6. From the reason for refusal, as well as the Council's Delegated Report and the documents submitted with their Questionnaire, I fully understood the Council's case and recognised that their objection related to the acceptability of the proposed first floor rear windows in terms of their impact on the privacy of the

adjoining occupiers at No.19. This objection was, in my view, both reasonable and legitimate.

7. It was apparent that the proposal would lead to the introduction of first floor windows and thus views of the adjoining properties, where no such views existed at present. Also, that both local and national policies required an assessment of the impact of the proposed windows on the living conditions of the occupiers of neighbouring properties.
8. In relation to policy, in exercising their duty under section 38(6) of the Planning and Compulsory Purchase Act 2004, the Council argued that the proposal would be contrary to policy PP27 of the Poole Local Plan in that it would have a harmful impact on the amenity of local residents. I concurred with the Council's findings in this respect.
9. As to the issue of Council's Officers reaching a subjective judgement on the proposal, as I set out in my main decision, where issues of overlooking arise it is not uncommon for the decision maker to have to apply their own planning judgement as to the acceptability of the relationships that arise. Such judgements will often be necessary where, as in this case, there is no published local practice guidance on which to draw on or refer to, leaving the decision maker to draw on their experience of similar developments as well as having regard to the individual circumstances of the case.
10. I am satisfied, therefore, that the Council's reason for refusal was not vague or unreasonable, and that the evidence submitted, which included reference to relevant development plan policy, substantiated and properly justified their objection to the appeal proposal.
11. For the above reasons, I cannot, therefore, agree that the Council has acted unreasonably in this case.

Conclusions

12. I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Practice Guidance, has not been demonstrated. An award of costs is therefore not justified.

G Roberts

INSPECTOR