



Costs Decision

Site visit made on 8 November 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2021

Costs application in relation to Appeal Ref: APP/V1260/W/21/3271515 Land to the rear of 18 Amberwood Drive, Walkford, Christchurch BH23 5RU

- 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 Radmore Homes Southern Limited for a full award of costs against Bournemouth, Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission to erect a single storey dwelling.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. The Planning Practice Guidance advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur unnecessary or wasted expense in the appeal process.
3. Whether the appeal scheme would harm the character and appearance of the area is a subjective assessment requiring the exercise of planning judgement. As I have explained in my planning decision, the fact that the new bungalow would not be visible from public vantage points does not automatically make it acceptable. The dwelling would be seen from surrounding properties and gardens, and the site layout would be discordant with the prevailing pattern of development. This is sufficient reason to find the proposal unacceptable. It follows from my decision to dismiss the appeal that the appellant's evidence on this issue was a necessary part of the appeal process.
4. Policy ME6 of the Christchurch and East Dorset Local Plan, Part 1 – Core Strategy (2014) requires all development to demonstrate that flood risk does not increase as a result of the development proposed, and that options have been taken to reduce overall flood risk. Conditions can be used to secure the detail of surface water drainage schemes. However, it was legitimate for the Council to expect a basic level of information with the application. This was not provided – the plan showing a Sustainable Drainage Scheme was only submitted with the appeal particulars. Therefore, the Council's behaviour on this particular matter was not unreasonable.

5. The Council relied upon the advice of its in-house highway consultee when refusing the scheme on highway safety grounds. This departed from the 'no objection' response of Dorset County Council as Highway Authority when it considered an earlier proposal¹ for three dwellings to be served by the same private drive. That scheme included a pair of passing bays, one on a grass verge to the west of the drive and another to the east. The locations for both are within the red line of the current appeal site.
6. The Transport Development Management Officer's statement suggests that the provision of two passing bays as per the previous scheme would be sufficient to overcome the highway objection. Yet the case officer report raises concerns over the removal of protected trees. This implies that passing bays would be expected further north where the drive is closely flanked by trees and hedging. The evidence is unclear. If the Council is adopting the position of its internal consultee then the matter could have been addressed by means of a negatively worded planning condition. If it is taking the case officer's line then the authority has behaved inconsistently as passing bays were not sought in that location previously for a larger scheme of three dwellings.
7. That Bournemouth, Christchurch and Poole is a newly formed unitary authority with access to its own in-house highway advice does not alter my view that there has been unreasonable behaviour in relation to the highways issue. The appellant had the right to expect consistent and predictable decision-making, and the introduction of a new issue would have come as a surprise. This has incurred the appellant in unnecessary expense in the appeal process. As such, I consider that a partial award of costs is warranted.

Costs Order

8. In the exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Bournemouth, Christchurch and Poole Council shall pay to Radmore Homes Southern Limited, the costs of appeal proceedings described in the heading of this decision, limited to those costs incurred in relation to the second refusal reason on highway matters. Such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to Bournemouth, Christchurch and Poole Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Robert Parker

INSPECTOR

¹ Council Ref. 8/17/0375/FUL