
Costs Decision

Site visit made on 28 February 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 16 March 2022

Appeal Ref: APP/V1260/W/21/3279936

60 Langdon Road, Poole BH14 9EH

- 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 Regal Homes Ltd for a full award of costs against BCP Council.
 - The appeal was against a refusal of the local planning authority to grant planning permission for development described as demolish existing buildings and erect 1 pair of semi detached houses with parking.
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Decision

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

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.
3. The applicant claims that the Council acted unreasonably on Grounds which I summarise as:
 - (a) failing to give sufficient weight to an appeal decision relating to 49 Langdon Road opposite;
 - (b) refusing the application instead of engaging in negotiation which could have led to approval; and
 - (c) failing to properly apply the 'tilted balance' set out within paragraph 11 of the National Planning Policy Framework (the Framework).
4. With regard to Ground (a), the relevant part of the appeal decision in question is that related to character and appearance. The findings of the Inspector in that case are similar to my findings in relation to the current appeal. The sites and the developments nonetheless differ in terms of their layout and form. In this regard it was not unreasonable for the Council to seek to draw a distinction in assessing the scheme and to attach weight accordingly. Ground (a) therefore fails.
5. Insofar as I have been provided with no reason to believe that negotiation would have resulted in a scheme that the Council would have found acceptable, Ground (b) also fails.

6. At the time the application was determined the Council's Housing Delivery Test result fell below the 75% threshold which triggers the tilted balance. This was acknowledged within the officer report but not applied. Nor should it have been given the then failure of the scheme to fully mitigate its likely significant effects on the integrity of habitats sites. Indeed, in the absence of an Appropriate Assessment which concluded that the scheme would not adversely affect the integrity of habitats sites, the tilted balance could not have applied. This is both set out within paragraph 182, and a subject of Footnote 7 of the Framework. Ground (c) therefore fails.
7. I find therefore that the applicant did not incur unnecessary or wasted expense in the appeal process on any of the Grounds claimed.

Conclusion

8. For the reasons outlined above, I find that unreasonable behaviour resulting in unnecessary expense as described in the PPG, has not been demonstrated. I therefore conclude that the application for an award of costs should be dismissed.

Benjamin Webb

INSPECTOR