
Costs Decision

Site visit made on 17 November 2021

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2022

Costs application in relation to Appeal Ref: APP/V1260/D/21/3278966 82 Hengistbury Road, BOURNEMOUTH, BH6 4DJ

- 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 & Mrs M Ashby for a full award of costs against the Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of the Council to grant planning permission for alterations and extensions to dwelling.
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Decision

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

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. The PPG also sets out that if the local planning authority will fail to determine an application within the time limits it should give the applicant a proper explanation and if the Inspector or Secretary of State concludes that there were no substantive reasons to justify delaying the determination the authority may be at risk of an award of costs.
3. The applicant states that, in their view, the scheme is acceptable and the Council should have approved it within the statutory 8 week period and avoided the delays and, ultimately, the need for the appeal. They therefore hold that the Council failed to act proactively in the planning process thereby causing the applicant to incur unnecessary costs.
4. The Council registered the current application on 06 January 2021 and did not determine it until 15 June 2021. Whilst I acknowledge that this exceeded the determination period it is clear from the evidence before me that the delay was caused by a number of factors, including issues regarding land ownership. It is also evident that the Council Officer liaised with the applicant throughout the determination period.
5. In my view, it is not unreasonable for the Council to wait until procedural issues, such as land ownership, have been overcome before fully assessing any application.
6. The PPG also states that examples of unreasonable behaviour by local planning authorities include preventing or delaying development which should clearly be

permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

7. I note that the applicant considers that the Council Officer was unwilling to negotiate. However, the evidence submitted by the Council suggests that email correspondence around the acceptability of the proposal was undertaken.
8. The PPG sets out that where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs. Whether or not a proposal would cause harm, and therefore fail to accord with the adopted development plan policy, is a matter of planning judgement. The Council have clearly set out the reasons for refusing the application and have substantiated these reasons, reaching a judgement in the way they are entitled to. Accordingly, I do not consider that the appeal could have been avoided altogether.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

L J O'Brien

INSPECTOR