
Costs Decision

Site visit made on 2 August 2022

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 19 August 2022

Costs application in relation to Appeal Ref: APP/V1260/W/21/3288072 4 Canford Crescent, Poole BH13 7NB

- 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 Amirez Ltd for a full award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for the demolition of the existing house and erection of 2 detached dwellings with associated access and parking.
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Decision

1. The application for a full award of costs is refused

Reasons

2. Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only 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. The PPG includes examples of the types of behaviour that may lead to a substantive award of costs against a Local Planning Authority. Amongst other things, this can 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, failure to produce evidence to substantiate each reason for refusal on appeal, not determining similar cases in a consistent manner and vague generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
3. In respect of the first reason for refusal given by the Council, the Applicant maintains that only vague, generalised, or inaccurate assertions regarding the impact of the proposal on the living conditions of neighbouring residents was provided by the Council. Whilst it will be seen from the Appeal Decision that the footprint of the proposed unit closest to the shared boundary with 2 Canford Crescent would be reduced when compared to the existing position, the higher walling and reduction in separation distance would have an adverse effect in terms of light and would have an overbearing impact on neighbouring residents at 2 Canford Crescent.
4. In that regard, I find that the Council's Officer Report and Statement of Case provide clear and understandable reasons to substantiate the refusal on these grounds, with reference to the reduced footprint, higher walling and reduction in separation distance when compared to the existing position. As such and given my findings in the Appeal Decision on this matter, I conclude that the

Council have not acted unreasonably with regards to vague, generalised or inaccurate assertions that were not supported by any objective analysis with regards to the first reason for refusal.

5. In terms of the second and third reasons for refusal, the Applicant maintains that the Council failed to produce evidence to justify their position. Furthermore, the Applicant has put it to me that the Council's Officer failed to have regard to a submitted daylight analysis assessment and, consequently, it is contended that the Council have made inaccurate assertions about the impact of the proposal that is not supported by objective analysis.
6. As will be seen from the Appeal Decision and having regard to the submissions, whilst I concur that the proposal would not have a materially harmful effect in respect of amount of light that would be able to enter the rear of the proposed dwelling, it is clear from the evidence before me that the Council considered the submitted daylight analysis assessment and came to a different conclusion. Furthermore, it will be seen that I have agreed that the appeal proposal would have a harmful effect on the living conditions with regards inadequate private external amenity space for the proposed unit 1 and find that the Council's submissions provide clear and understandable reasons to substantiate the refusal on these grounds. The Council considered the Applicant's submissions and reports and raised legitimate concerns in an adequate manner. It did not, therefore, act unreasonably in relation to these issues.
7. With regards to the Applicant's contention that the Council has not been consistent in determining similar applications, the Applicant has referred me to a recent outline planning application for a three storey block of flats at the site, which, following non-determination by the Council, was refused at appeal. That matter was considered within the Appeal Decision, and I found that the respective schemes were not comparable and that there were different considerations that applied in that case. The Council provided a clear analysis in that respect, including a detailed analysis of the differences between the respective schemes. As such, and given the conclusions of the Appeal Decision, I do not find that the Council has acted unreasonably with regards to consistent decision making.
8. For the reasons outlined above, I conclude that the Council has not acted unreasonably with regards to vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, nor has acted unreasonably in respect of failing to produce evidence and not determining similar cases in a consistent manner. Given the reasons and conclusions outlined in the Appeal Decision, I further do not find that the Council prevented or delayed development that should have been clearly permitted and, consequently, I do not find that the Council have acted unreasonably in this regard.
9. The PPG advises 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. For the reasons given, I find that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and that, therefore, an award of costs is not justified in this instance.

A Spencer-Peet INSPECTOR