
Costs Decision

Site visit made on 21 September 2022

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2022

Costs application in relation to Appeal Ref: APP/V1260/W/22/3292970 142A York Road, Poole BH18 8EY

- 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 S Daniels for a full award of costs against BCP Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for demolition of existing dwelling and replacement with 1no. bungalow.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, costs may be awarded where a party has behaved unreasonably, and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against local planning authorities may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process. The applicant is seeking a full award of costs on substantive grounds.
4. The Guidance states that examples of unreasonable behaviour by local planning authorities which may give rise to a substantive award of costs include: failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis; and 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.
5. The applicant's view is that the Council has not afforded relevant weight to, or taken sufficient account of, the following matters: the demolition of the existing lawful dwelling on the appeal site; the proposed position of the replacement dwelling in relation to protected trees compared to that of the existing dwelling; the applicant's view that the proposal would improve the built relationship with the neighbouring dwelling at No.142; and the existence of other approved back land development within the site vicinity.

6. I find that the putative refusal reason, as set out in the Council's Appeal Statement, is complete, precise, specific and relevant to the application and that it clearly states which development plan policies the proposal would be in conflict with.
7. I also find that the reason for refusal has been adequately substantiated within the Council's Appeal Statement, which takes account of the planning status of the existing dwelling to be replaced, and its role as a material planning consideration.
8. The Council's Appeal Statement acknowledges the presence of protected trees on the appeal site and neighbouring land, explains why the Council has some concerns about their relationship with the proposal, and states why the Council considers that it had insufficient information from the appellant at the time of writing its Appeal Statement to come to a view on this issue, which it did not include within its putative reason for refusal.
9. Moreover, my Appeal Decision, which accompanies this Costs Decision, confirms that, since this matter is not determinative to the appeal outcome, and due to the limited amount of supporting information from both parties before me at the time of my site visit, I have not come to a view on this issue as part of the determination of the appeal.
10. The Council's Appeal Statement has not specifically commented on the recent planning permission for a dwelling to the rear of No.136, which was drawn to my attention by the appellant after the submission of the Council's Appeal Statement. My accompanying Appeal Decision explains why I consider that this neighbouring development is not directly comparable with the appeal scheme, and why, having regard to the evidence before me and my site visit, it has not altered my conclusions in respect of the impact of the appeal scheme on the character and appearance of the area. As such, I did not formally request a further response from the Council to the appellant's Final Comments in respect of this development, and I am satisfied that the Council has not acted unreasonably having regard to the planning history of No.136.
11. I also find that the Council's Statement has clearly articulated its concerns in respect of the relationship between the proposal and the existing dwelling at No.142 having regard to the three main issues that I have identified in my accompanying Appeal Decision.
12. Accordingly, I find that the Council was entitled to defend the appeal and has not acted unreasonably in so doing. I have found that the appeal scheme does not accord with the development plan and national policy, and that there are no material considerations that outweigh this conflict. As such, the appeal could not have been avoided.

Conclusion

13. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S Leonard

INSPECTOR