



Costs Decision

Site visit made on 31 January 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2023

Costs application in relation to Appeal Ref: APP/V1260/W/22/3306958 80 Glenville Road, Christchurch BH23 5PY

- 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 Mrs, Mr and Mr Bates, Bates and Ayres for a full award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of outline planning permission to sever the land to the rear of Nos. 80 & 82. Demolition of existing property No.84 and construction of 5 x 3 bed dwellings and 1 x 4 bed dwelling with associated access and parking.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process. It is also clarified in the PPG that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, though behaviour and actions at the time of the planning application can be taken into account in the consideration of whether costs should be awarded or not.
3. The applicant claims that the Council has exhibited unreasonable behaviour that made the appeal necessary in the first place due to: refusing the application which the applicant states is directly in accordance with recently adopted parking standards with no grounds; Reasons for refusal not providing any specific objection to the proposed development, but are vague and generalised concerns unsubstantiated with evidence; failing to determine the application in a manner consistent with a previous application; and objecting to the proposed development on grounds previously indicated to be acceptable by an Inspector within a previous appeal decision.
4. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In this case, the Biodiversity Officer concluded that the proposed development was acceptable in respect of protecting the ecological interests on the appeal site.

5. Furthermore, the highway officers concluded that the degree of on-site parking proposed was acceptable and accorded with what was then a recently adopted parking standards Supplementary Planning Document. Yet little evidence was put forward by the Council to support both reasons for refusal and establish how or why the submitted Preliminary Ecological Appraisal was insufficient, or evidence that there is an existing parking problem, and if so, how this would be made worse on highway safety grounds. In respect of both reasons for refusal, the Council has not demonstrated with any clear evidence how the proposed development would be contrary to the stated development plan policies.
6. Although it is the case that the Highcliffe & Walkford Neighbourhood Plan (NP) was made following the Council's decision, it was at a stage at the point of decision that the Council could afford weight to it, and I note that this was referred to within the Committee Report. Even if the Council had found conflict with policies within the NP, no conflict with any NP Policies are reflected within the reasons for refusal.
7. The reasons for refusal were not raised in an earlier planning refusal for a similar proposal, and although it is put to me that this was an Officer delegated decision, the decision is that of the Council and the PPG states that not determining similar cases in a consistent manner is unreasonable. Furthermore, the Inspector is clear within the previous appeal decision, relating to the previous refusal that the protection of protected species could be secured by condition, and found no harm in relation to parking or highway safety.
8. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the development proposed should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the National Planning Policy Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging and progressing the appeal.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

COSTS ORDER

10. In 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 the Bournemouth Christchurch and Poole Council shall pay Mrs, Mr and Mr Bates, Bates and Ayres, the costs of the appeal proceedings described in the heading of this decision.

11. 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

S Harrington

INSPECTOR