



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/22/3307123 14 Links Road, Poole BH14 9QR

- 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 and Mrs Paul Adams, for a full award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for erection of a two-bedroom bungalow.
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Decision

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

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.
3. The applicant contends that the Council has exhibited unreasonable behaviour that made the appeal necessary in the first place in relation to failing to take into account the 'presumption in favour of sustainable development' citing two 'out-of-date' policies in its reason for refusal; basing a reason for refusal on historic information without a site visit by the tree officer; alleging that trees would cast shade on the garden to make it unusable; and not approaching the application in a positive way and failing to provide the applicant with opportunity to address matters within the application process.
4. The reasons for the refusal set out in the decision notice are complete, precise, specific and relevant to the application. It also clearly states the policies of the Poole Local Plan (November 2018) that the proposal would be in conflict with. This reason has been adequately substantiated by the Council in its Officer Report where the Council clearly acknowledge the housing supply position and undertakes the planning balance required within Paragraph 11d(ii) of the National Planning Policy Framework (Framework).
5. Despite the Councils stated housing land supply position, Paragraph 11d(ii) of the Framework does not determine the weight to be attached to the conflict with any development plan policies relevant to the proposal. If the 'Paragraph 11d(ii) balance is triggered, the most important policies are deemed to be out of date for the purpose of paragraph 11 d) but the Framework does not

- prescribe the weight which should be given to the conflict with those development plan policies in those circumstances.
6. As such and given the planning balance provided within the Council's officer report, the citing of development plan policies within the reasons for refusal is not unreasonable.
 7. The Council have stated that a site visit was undertaken on 8 April 2022 prior to the issue of the decision. I acknowledge the applicants' comments that all parties, such as the tree officer should have visited the site and the officer who has visited was the original case officer. However, given the context of the application I do not find it unusual, or unreasonable for a single officer to visit to obtain up to date evidence, and while there may be benefits in the determining case officer visiting the site, the Council provided substantiated and reasonable assessment and recommendations within the officer report.
 8. Furthermore, the conclusions that the Council reached in relation to light is reasonable given the surrounding mature trees and position of the proposed dwelling. The applicant's daylight survey was submitted within the appeal process, and therefore the Council would not have had the benefit of this information during their determination of the application.
 9. The applicant has also expressed concerns regarding the Council not approaching the application in a positive way and not providing an opportunity to address matters during the application process. The Council refer to an internal 'Update' Policy which outlines the scope of amendments that can be considered during the application process. It is not within the remit of this costs application for me to comment as to if such a Policy accords with the positive approach advocated within the Framework, however I note that, notwithstanding my decision on within the main appeal, the Council considered that significant changes would be required to overcome their concerns. Although I agree that this would have been beneficial to have been communicated to the applicant, this in itself does not result in unreasonable behaviour.

Conclusion

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

S Harrington

INSPECTOR