
Costs Decision

Site visit made on 24 January 2023

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Costs application in relation to Appeal Ref: APP/V1260/W/22/3305774
The garage between 22 Banks Road and 1 Panorama Road, Poole
BH13 7QE

- 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 Mullins 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 planning permission to add an additional 2 storeys to the existing garage, and other works to create a pair of semi-detached houses.
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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 an appeal, costs may be awarded against a party who has behaved unreasonably, and thereby caused the party applying for the costs to incur unnecessary or wasted expense in the appeal process.
3. The Guidance advises that awards may be procedural relating to the appeal process, or substantive relating to the planning merits of the appeal. All parties are expected to behave reasonably throughout the planning process, and costs can only be awarded in relation to unnecessary or wasted expense at the appeal. The Guidance makes it clear that costs cannot be claimed for the period during the determination of the planning application, although behaviour of the parties at this time can be taken into account.
4. The application for an award of costs and the response of the Council have been made in writing and will not be repeated here in any detail. The appellant considers the Council caused delays in the handling of the application that led to evidence becoming out of date. The response rate and general administration of the Council was negligent, and staffing changes caused further delays. The Council was also inconsistent with regard to its decision making upon flooding cases. The appellant is seeking the return of the application fee, the costs incurred

through having to submit specialist reports, and the costs resulting from having to submit an appeal.

5. My decision explains that I have found substantive reasons for dismissing the appeal. The delay in the consideration of the application would have been frustrating, particularly as initial consultations did not occur. Staffing changes caused delays, but despite this the Council did inform the appellant in January 2022 that the scheme would be refused as it would not preserve or enhance the area.
6. Having regard to this advice from the Council and that the scheme had failed the Sequential Test, the decision to provide additional reports on flooding matters would have been one for the appellant to make. As the appellant stated they would be further looking into flooding issues, it was not remiss of the Council to delay making a decision upon the application until this had been undertaken.
7. The consistency of the Council's decision making with regard to flooding matters would also be frustrating for the appellant. However, for this case the Council has provided reasoning for their stance which is in accordance with national and local policy. Moreover, the appellant was made aware that the application was to be refused for other reasons. It is not the case that development which should have been permitted has been prevented or delayed.
8. The consideration of applications involves matters of judgement that are at times finely balanced based on complex evidence. In this case the scheme raises several considerations, and the Council gave a different weight to these issues than the appellant. This was not unreasonable of the Council, and the decision to submit an appeal would have been one for the appellant to make.
9. Finally, the appellant's request for the refund of the original application fee would be a matter for the parties to address.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated.

J J Evans

INSPECTOR