
Costs Decision

Site visit made on 1 August 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2023

Costs application in relation to Appeal Ref: APP/V1260/W/22/3307952 6 Burton Road, Poole BH13 6DU

- 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 Bournemouth, Christchurch and Poole Council for a partial award of costs against Bayview Developments (South) Ltd.
 - The appeal was against the refusal of planning permission for the sub-division of the plot and construction of a detached house to the rear of the existing building.
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Decision

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

Reasons

2. Planning Practice Guidance (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.
3. The applicant submits that the appellant has acted unreasonably by submitting a Daylight and Sunlight Report as part of the appeal documents which was not provided as part of the original planning application. They contend that this required the Council to engage a specialist consultant to consider the report, which entailed associated costs.
4. PPG¹ further indicates that appellants are required to behave reasonably in relation to procedural matters on the appeal. Examples of unreasonable behaviour which may result in an award of costs include only supplying relevant information at appeal when it was requested, but not provided, at application stage and introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen.
5. Notwithstanding the Council's description of the daylight report as 'late evidence', there is nothing before me to show that the appellant failed to adhere to the appeal deadlines. Hence, there was no need to delay or adjourn proceedings and the Council had the requisite period to respond.
6. Moreover, the Council confirm² that they did not request such a report during the application stage. It seems to me that the report was prepared for the

¹ Paragraph: 052 Reference ID: 16-052-20140306

² Page 4, Council's Costs Response letter dated 10 July 2023

appeal in direct response to refusal reason 2 on the Council's decision notice which cites the shading by trees of the recreational amenity area of the proposed dwelling as a concern. In the circumstances, the technical evidence provided was a foreseeable and reasonable response by which to test the Council's position on this matter.

7. Just because the Council's resourcing arrangements with respect to obtaining advice on technical daylight reports are different to other in-house sources of advice, it does not follow that the appellants acted unreasonably in providing the technical evidence. In any event, the Council had agency as to how they chose to respond to the appeal evidence, such that I do not accept they were forced to engage the services of an external contractor as is stated. Even if they considered it necessary to assess the veracity of the daylight report provided, it is not shown that the appellant's actions resulted in further expense than had the report been provided at the planning application stage.
8. In short, I do not consider that the appellant acted unreasonably in submitting a daylight report in response to one of the reasons for refusal.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. As such, the partial award of costs sought is not warranted.

Helen O'Connor

Inspector