



Costs Decision

Site visit made on 16 August 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Costs application in relation to Appeal Ref: APP/V1260/W/22/3313536 Land adj 43 Sandecotes Road, Poole BH14 8PA

- 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 Mr Gerald Maurice Gallop and Mr Jonathan Howard Gallop.
 - The appeal was against the refusal of planning permission for the erection of a detached dwelling with associated access and parking.
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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 appellants have acted unreasonably by submitting a Daylight Study, Arboricultural Consultant Appeal Statement, Proposed Foundation Plan, Drainage and Building Section Drawing, Greenfix Method Statement for the installation of Geoweb Tree Root Protection System and Geoweb Tree Root Protection System information as part of the appeal documents. This information was not provided with the original planning application. They contend that this required the Council to engage a specialist consultant to consider the information in relation to the effect on daylight, 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 information listed as 'late evidence', there is nothing before me to show that the appellants failed to adhere to the appeal deadlines, and they confirm that it was submitted as part

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

of their appeal submission in December 2022. Hence, there was no need to delay or adjourn proceedings and the Council had the requisite period to respond.

6. The Council confirm² that they did not request a daylight study during the application stage. In addition, the email correspondence dated 28 June 2022 provided shows that the appellants specifically asked whether additional information could be submitted in relation to the trees and a daylight study to overcome the Council's concerns. This was not encouraged, and the Council proceeded to make their decision the next day.
7. It seems to me that the daylight study and additional tree information was prepared for the appeal in direct response to refusal reasons 2 and 3 on the Council's decision notice. These cite an insufficient amount of natural light entering the habitable accommodation of the proposed dwelling and shade to the recreational amenity area, and a poor relationship to existing trees as concerns. In the circumstances, the technical evidence provided with the appeal was a foreseeable and reasonable response by which to test the Council's position on these matters.
8. 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. Even if they considered it necessary to assess the veracity of the daylight study provided by using an external consultant, it is not shown that the appellants' actions resulted in further expense than had the daylight study been provided at the planning application stage. The same is true for the supplementary tree information.
9. In short, I do not consider that the appellants acted unreasonably in submitting the further information in response to the reasons for refusal. Furthermore, unreasonable behaviour as defined in the PPG in this respect has not been demonstrated.

Conclusion

10. 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

² Pages 3-4, Council's Costs Response letter dated 27 June 2023