



Costs Decision

Site visit made on 7 December 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2023

Costs application in relation to Appeal Ref: APP/V1260/W/23/3320013 5 Parkstone Heights, Poole BH14 0QE

- 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 Primetower Properties Ltd for a full award of costs against Bournemouth Christchurch and Poole 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 for demolition of existing bungalow and erection of three dwellings.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 048 of the PPG sets out scenarios when a local planning authority's handling of the planning application prior to the appeal may lead to an award of costs. It states that in any appeal against non-determination, the local planning authority should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the prescribed period.
4. Whilst the Council have indicated that planning permission would have been granted if they had determined the application, this does not mean that it should be assumed that the proposed development is acceptable.
5. As seen from my appeal decision I have found that the proposed development would adversely affect the character and appearance of the area. I therefore do not agree that it should have been approved having regard to the development plan, national policy and other material considerations.
6. The original decision was made on 6 October 2022 granting planning permission for the development subject of this appeal. The decision was quashed following a Judicial Review on the grounds that Council officers did not have delegated authority to make a decision at that time.
7. Based on the evidence before me the Order of the Court was received by the Council on 10 February 2023, but it was not until 30 March 2023 that the applicant was advised that the application was to be reassessed by a different Planning Officer. No clear time frame as to when the application would be

considered by Planning Committee was provided. It was only after the applicant had submitted the appeal did the Council refer the application to Planning Committee.

8. The original decision was quashed on a procedural matter rather than on substantive grounds and the planning merits of the proposals. Therefore, it appears to me that it should have been a relatively straightforward task of including the report on the agenda for the next available Planning Committee meeting, irrespective of a new officer being assigned to the case.
9. Whilst I note a backlog of historic cases, this to my mind is not justification or a proper explanation for delaying determination of the application, in this instance. As such, I find the Council behaved unreasonably in this respect.
10. Had there been timely communication from the Council and had they been proactive this appeal could have been avoided. Therefore, on this basis, the applicant has wasted time and expense in pursuing the appeal, notwithstanding my decision in relation to the merits of the scheme.

Costs Order

11. 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 Bournemouth Christchurch and Poole Council shall pay to Primetower Properties Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. 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.

B Thandi

INSPECTOR