



Costs Decision

Site visit made on 31 October 2023

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 February 2024

Costs application in relation to Appeal Ref: APP/V1260/W/22/3310118 The garage between 22 Banks Road and 1 Panorama Road

- 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 Bournemouth, Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for conversion and vertical extension of existing domestic garage to create two flats.
-

Decision

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

Reasons

2. National Planning Policy 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 or wasted expense in the appeal process. Claims can be procedural – relating to the process; or substantive – relating to the issues arising from the merits of the appeal.
3. Reference is made by the claimant to the governments Planning Guarantee with regards to the planning application fee paid for the appeal application. For clarity, an award of costs can only be awarded in relation to unnecessary or wasted expense at the appeal. Therefore, the Planning Guarantee does not fall within the scope of this application for costs, and I have therefore not considered this element of the appellant's submission.
4. The PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
5. The Council, in their appeal submissions, has provided a detailed chronology of the progress of the appeal application, which includes the additional time which was granted to the appellant to prepare, and subsequently update their Sequential Test. I agree with the appellant there may have been some delay in providing an initial response to their original Sequential Test. However, the Council provided ample opportunity prior to the determination of the appeal application for the appellant to address their concerns. Ultimately, the Council still came to the view that the updated information was not acceptable, and provided detail during the course of the appeal to substantiate their position.

6. Whilst the appellant may disagree with these conclusions, I do not consider it to be unreasonable of the Council to adopt this position. Neither do I consider that the delays to the determination of the appeal application amount to unreasonable behaviour.
7. The appellant has made reference to a number of inconsistencies in the way the Council have applied the Sequential Test on other planning applications. This is accepted by the Council. I agree that this can be extremely frustrating to applicants, as they ultimately wish to see clear direction and consistency in the application of both national and local planning policy. That said, whilst I can fully appreciate the frustration felt by the appellant, considering that the appeal application was determined in line with national policy on flood risk matters, I do not consider that this amounts to unreasonable behaviour by the Council.
8. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

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

Adrian Hunter

INSPECTOR