



Costs Decision

Site visit made on 4 June 2024

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2024

Costs application in relation to Appeal Ref: APP/V1260/W/23/3331663 50 Southbourne Grove, Bournemouth BH6 3RB

- 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 & Mrs A Bradshaw for a full award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for extension to add an additional floor (Third) to provide 2 no flats with associated cycle and bin stores.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (the 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. The application contends that the Council acted unreasonably through:
 - a) delaying the development, despite previous Inspectors concluding that there would be no harm to the character and appearance of the area, or to the living conditions of neighbouring occupants;
 - b) providing insufficient evidence to support its reasons for refusal; and,
 - c) not addressing the issue of the privacy of future occupants through a planning condition.
4. On the first issue, the PPG advises that preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and any other material considerations, is an example of behaviour that may give rise to a substantive award against a local planning authority¹.
5. The previous Inspectors' decisions were important material considerations in my decision. However, the proposal was not identical to either of the schemes that were considered in the previous appeals. In my decision, I concluded that the proposal's impact on character and appearance had more in common with the scheme that had been previously dismissed, than the one that was allowed. I also found that it gave rise to fresh issues with regard to the privacy of neighbouring occupiers. Consequently, the appeal decisions did not indicate

¹ Paragraph: 049 Reference ID: 16-049-20140306

that the development should clearly be permitted. Indeed, I concluded that it would have a harmful impact on the character and appearance of the area and dismissed the appeal. It therefore follows that I do not agree that the Council acted unreasonably on this issue.

6. On the second issue, the PPG identifies 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. The applicant contends that only subjective opinions and judgements were provided in support of its decision. However, consideration of issues such as character and privacy inevitably involve a degree of subjectivity. The Officer's Report and the Council's Statement of Case clearly explained their concerns in both regards. I concluded that there would be harm to the character and appearance of the area, and that, without a suitable planning condition, there would be a loss of privacy for the occupants of neighbouring properties. It follows, therefore, that I found the Council's evidence adequately supported its reasons for refusal.
7. On the third issue, the PPG advises that refusing planning permission on a planning ground capable of being dealt with by conditions puts a local planning authority at risk of an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead.
8. In my decision, I concluded that concerns about the privacy of future occupants could be addressed by a planning condition. However, the condition that I considered to be necessary would have gone beyond that which was suggested by the applicants in their appeal documents. It would also have resulted in a physical change to the extension, which would have significant implications for the ability of future occupants to access the surrounding roof. Whilst I concluded that such a condition could have been imposed, it was not irrational for the Council to consider that such a condition would have unreasonably thwarted the intentions of the applicant to provide outdoor amenity space for occupants. In any event, the application was refused on other grounds, and the appeal was dismissed, so a suitable condition overcoming this issue would not have enabled the proposed development to go ahead.
9. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Nick Davies

INSPECTOR