
Costs Decision

Site visit made on 8 August 2024

by C Rose BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 September 2024

Costs application in relation to Appeal Ref: APP/V1260/W/24/3336238 54 Elms Avenue, Poole BH14 8EF

- 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 and Mrs Yeoman for a full award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for Demolition of existing property and erection of replacement house.
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Decision

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

Reasons

2. 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. The applicant considers that the Council acted unreasonably in substantive terms by failing to undertake a site visit resulting in it not appreciating and understanding the interrelationship between the appeal site and its surroundings. Furthermore, the Council have not been consistent in their approach to the consideration of the character of the area with no reason to depart from previous assessments, examples of which are provided.
4. The Council has not responded to the applicant's cost claim.
5. The PPG advises behaviour that may give rise to a substantive award of costs includes preventing and delaying development which should clearly be permitted, failure to produce evidence to substantiate each reason for refusal, and providing vague, generalised, or inaccurate assertions about a proposal's impact.
6. As I have generally found in favour of the Council with regard to the first two reasons for refusal in my main decision, I do not find that the lack of a site visit by the Council led to unnecessary expense with regard to these main issues. The Council assessed the character of the area, recognised that properties in the area have been extended, remodelled, or redeveloped and determined the proposal, using its planning judgement, based on specific harm from the design rather than with concerns regarding the redevelopment of the site. Furthermore, for the same reasons, I do not find that the Council has been

inconsistent in its approach to the assessment of the character of the area, with their concerns mirrored by a number of interested parties such that the reasons for refusal were not in themselves unreasonable.

7. While my findings in the main decision may not agree with all of the Council's concerns regarding the effect of the proposal on the living conditions of neighbouring occupiers, it justified and adequately detailed its position in its planning report. As such, I cannot be sure that a site visit would have led to a different conclusion on a matter requiring the exercise of planning judgement.
8. Nonetheless, I have found in favour with the applicant with regard to the effect upon a tree and had the Council visited the site, they would have had a better appreciation of the context and site levels within which the tree currently sits. Furthermore, a site visit would have confirmed the levels to the Council, existing structures, and likely effect upon the tree such that the need for further information would have been unlikely. This represents unreasonable behaviour on the basis of failing to substantiate the third reason for refusal and providing generalised assertions about the proposal's impact.
9. In light of the above, I find that unreasonable behaviour on substantive grounds resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated in relation to reason for refusal number 3 with regard to harm to trees and that accordingly a partial award of costs is justified.

Costs Order

10. 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 Mr and Mrs Yeoman, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred connected with matters related to the third reason for refusal, such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. 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.

C Rose

INSPECTOR