



Costs Decision

Site visit made on 4 September 2024

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2024

Costs application in relation to Appeal Ref: APP/V1260/W/24/3340330

- 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 Britannia Parking for a full award of costs against Bournemouth Christchurch and Poole Council.
- The appeal was against the grant subject to conditions of planning permission for continued use of the land as a temporary car park for an additional two years.

Land at Former Punshon Church, Exeter Road, Bournemouth, Dorset, BH2 5AH

Decision

1. The application for a full award of costs is refused.

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. The PPG sets out details of circumstances in which an award of costs might be warranted.
3. The PPG indicates that costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceeding, however, behaviour and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
4. The PPG is clear that local planning authorities are at risk of an award of costs should they behave unreasonably by imposing a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects, and thus does not comply with the guidance in the National Planning Policy Framework (the Framework) on planning conditions and obligations.
5. In this instance I have found that whilst condition 3 attached to planning permission Ref 7-2023-643-Y meets the tests set out within the Framework and the imposition of this condition was not unreasonable. However, conversely, I have set out in the appeal decision which accompanies this application my full reasons as to why I have found that condition 4 attached to the same planning permission was not necessary or reasonable and did not meet the test of the Framework.
6. Whilst in my decision on the appeal I have indeed reached a different view to the Council on the suitability of the condition imposed it does not necessarily

follow that the Council have acted unreasonably or caused unnecessary or wasted expense.

7. The Council's evidence is clear that they acted in good faith and believed that the applicant was open to the inclusion of a condition regarding alternative boundary treatments. Indeed, I have set out in my decision that the existing boundary treatment is harmful and an alternative is necessary.
8. Whether or not a condition would meet the tests set out within the Framework is a matter of planning judgement. The Council has clearly set out their reasons for including the condition and have reached a judgement in the way they are entitled to. Therefore the matter is one of disagreement between the parties that could only have been resolved by way of an appeal.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is not justified.

Conclusion

10. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, the award for costs is not justified.

L J O'Brien

INSPECTOR