



Costs Decision

Site visit made on 18 June 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2024

Costs application in relation to Appeal Ref: APP/V1260/W/23/3330076 6 Burton Road, Poole BH13 6DU

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972 (as amended), section 250(5).
- The application is made by Mr T Cullen (CBV Burton Ltd) for a full award of costs against Bournemouth Christchurch and Poole Council.
- The appeal was against the refusal of planning permission for demolition of the existing house and construction of a replacement house.

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 (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.

Plans: application stage

3. The applicant has stated that the Council's decision notice references the incorrect plans. During the course of the associated planning appeal, the Council was asked to confirm whether their decision was made on the basis of the amended plans. The Council confirmed in an e-mail of 25 September 2024 that, apart from a revised Location and Block Plan, the Council did not determine the application on the basis of the amended plans and that the amended plans are not shown on Council's public-facing website.
4. The PPG advises that 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 awarded¹. In this regard, I have not been referred to any specific legal requirement or procedural rules which require that a Local Planning Authority is bound to determine an application on the basis of amended plans rather than the original plans, even after agreeing to the submission of amended plans and suggesting proposed conditions, which appears from the copies of the e-mails supplied to have occurred in this case.
5. The PPG advises that it is at the discretion of the Local Planning Authority whether to accept changes to an application, to determine if the changes need to be reconsulted upon, or if the proposed changes are so significant as to materially alter the proposal such that a new application should be submitted².

¹ Paragraph 16-033-20140306

² Paragraph 14-061-20140306

6. In this particular case, the amended plans submitted involved substantial changes to the proposed development, particularly in terms of the design of the proposed dwelling. As such, in my view the amended plans fall within the circumstance envisaged in the PPG of being so significant as to materially alter the proposal such that a new application should be submitted.
7. In these circumstances, it was not unreasonable for the Council to determine the planning application on the basis of the originally submitted plans. Hence, it has not been demonstrated that the Council's behaviour was unreasonable in relation to this ground.

Substance of the matters under appeal

8. As explained in detail in the associated appeal decision, whilst architectural styles in the Branksome Park Conservation Area are varied, and designs are of an architectural style contemporary with their construction or typical of older buildings in the area, the proposed development would not constitute an innovative contemporary design in the terms of paragraph 9.25 of the Poole Local Plan (adopted 2018) (Local Plan), but instead would lack the visual attractiveness required by paragraph 135 b) of the National Planning Policy Framework. As explained in the associated appeal decision, the design of the proposed dwelling would not preserve the appearance of the conservation area.
9. It is apparent from the associated appeal decision that I did not agree with every individual point made by the Council, including with respect to the height and size of the proposed dwelling and its relationship with 8 Burton Road, and in relation to the acceptability of the boundary treatment proposed. Nevertheless, overall I found that the proposed development would conflict with the development plan, which was a conclusion shared by the Council. Furthermore, those individual points are of marginal importance bearing in mind the far more fundamental concerns identified with respect to the design of the proposed development.
10. It follows that, even if I were to find that the Council's stance on those individual points constituted unreasonable behaviour, the Council would have had clear grounds to refuse the planning application in any event. An appeal and its associated costs would then have been necessary for the applicant to seek a resolution to the dispute. Hence, no unnecessary or wasted expense in the appeal process has occurred.

Conclusion

11. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not occurred and an award of costs is not warranted.

Alexander O'Doherty

INSPECTOR