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## Costs Decision

Site visit made on 24 September 2024

**by Nick Davies BSc(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 October 2024**

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### **Costs application in relation to Appeal Ref: APP/V1260/W/24/3338577 9 Tower Road, Bournemouth BH1 4LA**

- 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 R La Bouchardiere (9 Tower Road Limited) for a full award of costs against Bournemouth Christchurch and Poole Council.
  - The appeal was against the refusal of planning permission for erection of a two storey side extension and conversion of loft to habitable use with 2 x rear dormers to enlarge the existing 7-bed HMO with a manager's office.
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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, in the absence of any adopted standards for garden spaces, the Council's decision was made on the basis of subjective judgement, and without evidence to support any harmful impacts. Furthermore, it is contended that the decision was inconsistent with previous decisions made by the Council and Inspectors.
4. The PPG includes examples of unreasonable behaviour that may lead to a substantive award of costs against a local planning authority. These include:
  - making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis;
  - failure to produce evidence to substantiate each reason for refusal on appeal;
  - not determining similar cases in a consistent manner; and,
  - 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.
5. The absence of a specific policy identifying space standards is not unusual, and does not indicate that the amount or quality of external space for occupants should be disregarded. The Council has other adopted policies that seek to ensure that new development provides living conditions that are of a high

quality. In the absence of specified standards, consideration of this issue inevitably involves a degree of subjective judgement.

6. In my decision, I concluded that the proposal would fail to provide suitable external amenity space for the occupants of the bungalow, so would be harmful to their living conditions. It therefore follows that the Council produced evidence to substantiate this element of the reason for refusal. Whilst I found that sufficient external space would be available for occupants of the HMO, the Council's statement of case provided clear, specific, and accurate evidence relating to the impact of the proposal on the living conditions of future occupants. Whilst I disagreed with the conclusions, sufficient evidence was provided to justify the Council's decision.
7. The appeal site has a long and complicated planning history, and the Council's evidence clearly set out the various iterations of the proposed development. Whilst there was a previous appeal decision that permitted a 7-bed HMO, the quantum and arrangement of the external amenity space that would have been available to occupants would have been very different to that proposed under the appeal before me. There have been several proposals since then for HMOs with varying levels of occupancy and with differing arrangements of external space. All have been refused by the Council, and subsequent appeals have been dismissed. Whilst the Inspector in one of those appeals found the level of external space for occupants of the HMO to be sufficient, a more recent appeal decision found otherwise. I have explained in my decision why I concluded the way I did on this issue, but I see no evidence of any inconsistency in the way that the Council determined the application.
8. The issue regarding the outdoor amenity space for the bungalow is more straightforward. The Council has refused previous proposals that involved similar sized rear gardens, and Inspectors have dismissed subsequent appeals<sup>1</sup> on this issue. The Council's decision to refuse the application on this ground was, therefore, entirely consistent with previous similar cases.
9. I concluded in my decision that the appeal should be dismissed, as the proposal would lead to poor living conditions for occupants of the bungalow. It therefore follows that the Council did not prevent or delay development which should clearly have been permitted.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

*Nick Davies*

INSPECTOR

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<sup>1</sup> Appeal refs: APP/V1260/W/21/3285388 and APP/V1260/W/23/3331647