



Costs Decision

Site visit made on 17 September 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 November 2024

Costs application in relation to Appeal Ref: APP/V1260/W/23/3330583 Jade, 2 Delhi Close, Poole, BH14 9NH

- 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 J Yeoman, Park Place Properties for a full award of costs against Bournemouth Christchurch and Poole Council.
- The appeal was against the refusal of the Council to issue a planning permission for Variation of condition 2 of planning permission APP/19/01577/F to replace approved plans with PT100-01 Revision F, PT211-008, PT211-020 Revision D, PT100-006 and PT100-008 without complying with a condition attached to planning permission Ref APP/22/00871/F, dated 8 December 2022.

Decision

1. The application for 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.
3. The applicant's application for costs is based on the alleged unreasonable behaviour of the local planning authority ('LPA') and wasted expense for the reasons, as considered below.
4. It would appear that although a Case Officer visited the application site they did not access the balconies, which were in place at the time of the visit. However, there is no specific requirement on how a Case Officer should undertake an assessment of an application and in my experience, this can vary between officers.
5. Whilst the applicant suggests that photographs which the LPA have relied upon do not provide an accurate representation of the balconies and their relationship with adjacent properties, photographs can be taken for different purposes. In this instance, these were to highlight the arrangement of neighbouring gardens.
6. In any event, officers determining planning applications would largely rely on submitted plans and drawings. Moreover, the consideration of the effects of a proposal on the living conditions of neighbours involves planning judgement. This includes some subjective analysis having regard to the context of the site, the proposal and the development plan and any other relevant considerations, including local knowledge of the area, a site's planning history and

representations received. To this end, the LPAs report on the application, includes an adequate assessment of the proposal.

7. The reason for refusal set out in the LPAs decision notice is complete, precise, specific and relevant to the application. This reason for refusal also refers to a relevant development plan policy. Furthermore, the LPAs reason for refusal has been adequately supported by its appeal submissions.
8. Therefore, despite the initial support for the proposal by a Case Officer, I am satisfied that the LPAs final decision to refuse the application is supported by sufficient evidence.
9. Furthermore, the fact that a Case Officer expressed support for the proposal, is only an opinion and does not imply the certainty associated with a formal decision. As such, the applicant chose to install the balconies in the absence of planning permission, and did so at their own risk. This includes any subsequent caution placed on the properties which has resulted in the delay in the sales of the units and the associated commercial costs.
10. Delays in the determination of the planning application are unfortunate. Even so, and whilst there may have been some initial support for the proposal, the applicant could have chosen to appeal on the basis of the failure of the LPA to determine the application within the relevant timescale.
11. Drawing on the above reasons, whilst I have found the appeal in favour of the applicant, I am unpersuaded that the LPA purposefully and without good reason prevented and delayed development which should have been permitted. As such, I do not consider the LPAs approach to the determination of the planning application to represent unreasonable behaviour.

Conclusion

12. Given all of the foregoing, I conclude that unreasonable behaviour resulting in unnecessary expense, as described in the PPG, has not been demonstrated. Therefore, a full award of costs is not justified.

M Aqbal

INSPECTOR