



## Costs Decision

Site visit made on 22 October 2024

**by S Harrington MA MRTPI**

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

**Decision date: 14<sup>th</sup> November 2024**

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**Costs application in relation to Appeal Ref: APP/V1260/W/23/3334891  
Land to the rear of 77-79 Alma Road, fronting Bingham Road, Winton,  
Bournemouth, BH9 1AD**

- 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 B Jesty, Bluewaters Investments Ltd for a full award of costs against Bournemouth Christchurch and Poole Council.
  - The appeal was against the refusal of planning permission to demolish existing garages and erect pair of semi-detached dwellings accessed from Bingham Road
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### Decision

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

### 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. Unreasonable behaviour on the part of a local planning authority may include preventing or delaying development which should clearly be permitted, failure to produce evidence to substantiate each reason for refusal on appeal, and it making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The applicant contends that the Council refused planning permission for a development that has support from the development plan and National Planning Policy Framework. They further argue that the Council refused permission on the grounds of harm on matters including character and appearance, highway safety and living conditions, with vague, generalised and inaccurate assertions made against the appeal scheme without clear objectively assessed evidence to substantiate the reasons for refusal.
5. On the matter of character and appearance, the Council could have been more exacting in its assessment of how the proposal compares to development in the surrounding area, particularly relating to matters including the width of other dwellings in the area and quantum of built form across site widths. Nevertheless, the Council articulated reasonable concerns about the impact of the proposal within their reasons for refusal, relating these to relevant development plan policies and therefore did not exhibit unreasonable behaviour on this matter.
6. With regard highway safety, I have reached a differing conclusion to the Council in the main appeal decision, and limited correspondence may have

taken place between the Council and the appellant. However, given the particular context of the appeal site in that one of the access points would be onto a raised speed table, lack of turning area, and pedestrian activity in the area, the Council's concerns were reasonable. Furthermore, the Council articulated the justification for these reasons for refusal and related the concerns to relevant development plan policies.

7. In respect of living conditions, whilst not forming part of an adopted policy, the Council have quoted, and relied on the 'Technical housing standards – nationally described space standard (2015)' (NDSS) as a benchmark for acceptable internal space requirements. Given the lack of any other dedicated standards within the development plan, this is a reasonable position to take.
8. However, the Council argue that the proposed second bedrooms, due to their width, could accommodate 2 beds and thus 2 people, resulting in each dwelling being able to accommodate 4 people in total. Notwithstanding, due to their floor area, the second bedrooms clearly equate to a 1 bedspace room when considered against the technical requirements of the NDSS. The proposed layout is logical and storage areas and airing cupboards as proposed are not out of scale or unusual for dwellings of this type.
9. Even if it is the case the layout could be amended, resulting in additional useable space within the floor plan, the Council are required to assess the proposal and therefore the layout before them, which I find unequivocally relates to 2-bedroom, 3 person dwellings that would accord with the NDSS.
10. Given the Council have utilised the NDSS in their assessment, it should have had full regard to the technical requirements of the NDSS, including the technical space standards for 1 bedspace rooms, and how these accord to the proposal and floorplans that were before them. Instead, the Council made assertions that were not objectively assessed and as such has exhibited unreasonable behaviour, within its assessment on space standards. This has led to unnecessary and wasted expense in the applicant having to address this matter in their appeal.
11. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a partial award of costs is warranted.

### **Costs Order**

12. 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 B Jesty, Bluewaters Investments Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in contesting the third of the Council's Reason for refusal in so far as it relates to internal space standards; such costs to be assessed in the Senior Courts Costs Office if not agreed.

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.

*S Harrington*

INSPECTOR