
Costs Decision

Site visit made on 4 February 2025

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2025

Costs application in relation to Appeal Ref: APP/V1260/W/24/3346813

101 Longfleet Road, Poole BH15 2HP

- 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 and Mrs Beynon for a partial award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for change of use from small (C4) House of Multiple Occupation to large 8-bedroom (8-person) (Sui-generis) House of Multiple Occupation.
-

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 (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 is founded on two contentions. Firstly, that the Council failed to recognise that its Amenity Standards for Houses in Multiple Occupation (the Amenity Standards) should be a material consideration in the determination of the application. Secondly, that the Council did not provide clarity on whether the fourth reason for refusal was erroneous, and then failed to provide any evidence to substantiate it.
4. On the first issue, the PPG advises that a material planning consideration is one which is relevant to making the planning decision in question, and that the scope of what can constitute a material consideration is very wide. In this context, it could be considered surprising that the Council's delegated report made no mention of the Amenity Standards. However, the report had to cover a wide range of issues, so could not be expected to cover every conceivable material consideration. There is no evidence to indicate that the appellants referred to the Amenity Standards in support of their planning application, or that they were raised in consultations or representations. Consequently, there was no compulsion for the Council to refer to them in the delegated report.
5. When the appellants did refer to the Amenity Standards, as part of their appeal submission, the Council did respond, saying that they were produced to guide the housing licensing regime, so did not form part of the development plan. That is factually correct. The Council then referred to the Policy of the development plan that seeks to ensure a good standard of design in all developments, and satisfactory levels of external and internal amenity space for future occupiers. In

assessing compliance with this policy, the Council placed more weight on the advice in the Technical housing standards – nationally described space standard (the NDSS), rather than the Amenity Standards. For the reasons given in my decision, I concluded that the Amenity Standards had more relevance, so gave them greater weight.

6. The PPG advises that, provided regard is had to all material considerations, it is for the decision maker to decide what weight is to be given to the material considerations in each case¹. The Council gave greater weight to the development plan and the NDSS, but the evidence does not indicate that it had no regard whatsoever to the Amenity Standards. Whilst I found the Amenity Standards to be of considerable relevance in my decision, it was not irrational for the Council to weigh them differently. Consequently, I do not find the Council to have acted unreasonably in this regard.
7. The second issue relates to the fourth reason for refusal on the decision notice, which stated that *“the proposed scheme would result in a cramped frontage by virtue of adding the required infrastructure that would sit uncomfortably in its setting, highlighting there is insufficient land to enable the development. This fails to protect or enhance the Conservation Area”*. The reason for refusal also refers to *“harm to the non-designated heritage asset”* and cites conflict with Policies PP27, PP28 and PP30 of the Poole Local Plan.
8. The Council’s delegated report, however, makes no mention of a non-designated heritage asset, and says that *“the potential increase in bins requirement for the additional two bedrooms and cycle store within the site is not considered to result in a disproportionate demand of space that would result in a cramped and incongruous scheme that would cause adverse harm to the visual amenity and setting of the conservation area that warrant the application be refused”*. The following paragraphs also state that *“the use of the building as HMO will not adversely impact the setting and character of the conservation area”* and *“the use of the building for the proposed use would preserve the character and appearance of the dwelling. Therefore, the proposal accords with Poole Local Plan PP27 and PP30”*.
9. In view of the contradictory nature of the delegated report and the decision notice, the appellants quite understandably questioned, in their statement of case, whether the reason for refusal had been included in error. However, the Council’s Final Statement failed to address this matter. It referred only to the issue of living conditions for occupants and provided no evidence in support of the fourth reason for refusal. The appellants were therefore compelled to continue to address this reason, which was vaguely worded, and not supported by any objective analysis in either the delegated report or the Final Statement.
10. The PPG provides examples of behaviour that may give rise to a substantive award of costs against a local planning authority². These include:
 - making vague, generalised, or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis;
 - not reviewing their case promptly following the lodging of an appeal; and,
 - failure to produce evidence to substantiate each reason for refusal.

¹ Paragraph: 009 Reference ID: 21b-009-20140306

² Paragraph: 049 Reference ID: 16-049-20140306

11. The lack of any evidence in the delegated report to explain the reason for refusal; the failure to review the reason in the light of the submitted appeal; and the failure to provide any evidence in support of the reason for refusal all fall within these examples of unreasonable behaviour.
12. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the fourth reason for refusal, and a partial award of costs is therefore warranted.

Costs Order

13. 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 and Mrs Beynon, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in addressing the fourth reason for refusal; 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.

Nick Davies

INSPECTOR