



Costs Decision

Site visit made on 4 March 2025

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st March 2025

Costs application in relation to Appeal Ref: APP/V1260/W/24/3354085 45 Brixey Road, Poole BH12 3EY

- 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 S Cox for a full award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for change of use of garage to ancillary annexe accommodation in association with 45 Brixey Road.
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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 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 alleges that the Council acted unreasonably in focussing on Policy PP13 of the Local Plan¹, when it was clear from the description of the development that the proposal was for an annexe, rather than multi-generational living. However, it is clear from the Officer's Report and the decision notice that the Council considered a range of other development plan policies in its consideration of the application. It was not unreasonable for the Council to consider whether the proposal was supported by Policy PP13, and to conclude that it was not. The overall decision to refuse was not solely based on the lack of support from this Policy, but also on the conflict, as the Council saw it, with Policy PP27.
4. It is also contended that the Council unreasonably failed to take account of the existing lawful use of the building, the description of the development, and relevant case law in coming to its decision. I am mindful that the description of the development on the application form included the words "change of use", suggesting that the proposal was for a different use than that which already existed. It was not part of my remit, in determining the appeal, to establish whether the existing use of the building was lawful. Indeed, little evidence was submitted on the prevailing use of the office accommodation to enable such a judgement to be made anyway. The applicant's supporting statement did not cite any case law that the Council should consider in its determination of the application.

¹ Poole Local Plan (November 2018)

5. Against this background, it was not unreasonable for the Council to consider the application on its merits. Whilst I did not concur with the Council's concerns regarding the amenity of future occupants of the office space, in the absence of any evidence that the existing office use was lawful, it was not unreasonable for the Council to consider this issue.
6. The applicant also considers that it was unreasonable for the Council to include reference to the restricted external amenity space in its reason for refusal, when the area available would not change. However, the proposal for an annexe would increase the potential number of occupants of the planning unit as a whole, who would rely on the same amount of external space. Whilst I concluded that this would not make a significant difference to the living conditions of occupants, it was not irrational for the Council to conclude differently.
7. My attention has been drawn to an Inspector's decision and costs letter² relating to a purportedly similar proposal elsewhere. However, although that proposal was also for the conversion of a garage to an annexe, it seems from the limited evidence available to me, that there are considerable differences. In that case, it appears that the annex would have provided a more comprehensive level of internal accommodation. As a result, the main issue was whether the proposal would provide accommodation that would be tantamount to the creation of a separate self-contained and independent dwelling. In the case before me, the Council did not dispute that there would be a functional connection with the main dwelling, but had concerns about the living conditions of future occupants, and whether the accommodation could satisfactorily function as an annexe. Consequently, the cited appeal was of limited relevance to my decision, or to my costs decision.
8. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Nick Davies

INSPECTOR

² Appeal Ref: APP/W0340/W/22/3291473