



Costs Decision

Site visit made on 22 April 2025

by **J J Evans BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 June 2025

Costs application in relation to Appeal Ref: APP/V1260/W/24/3348942 46-52 Brownsea View Avenue, Poole BH14 8LQ

- 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 A&C Real Estate Limited for a full award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for the demolition of an existing dwellinghouse and subdivision of the plot to erect four dwellinghouses with associated parking and landscaping and access works.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (the 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 Guidance advises that awards may be procedural relating to the appeal process, or substantive relating to the planning merits of the appeal. All parties are expected to behave reasonably throughout the planning process, and costs can only be awarded in relation to unnecessary or wasted expense at the appeal. The Guidance makes it clear that costs cannot be claimed for the period during the determination of the planning application, although behaviour of the parties at this time can be taken into account.
4. The application for a full award of costs and the response of the Council has been made in writing and will not be repeated here in any detail. The appellant considers the Council has unreasonably refused the original application, making decisions that were unsupported by technical evidence. The Council was unclear as to whether a statement of case had been provided for the appeal, and within the statement that was provided, the reasons for refusal had not been substantiated. The Council do not appear to have reviewed the appellant's case, have made no reasonable attempt to justify the reasons for refusal, nor considered the impact of the housing land supply shortfall. Confused and contradictory arboricultural evidence was submitted for the appeal, which was tantamount to the introduction of a new, different reason for refusal. The Council has behaved unreasonably on substantive grounds, providing vague, inaccurate and inconsistent assertions.

5. The appeal decision explains the substantive reasons for dismissing the appeal. When refusing an application the Council is obliged by the Guidance to make the reasons for refusal clear. In this case the Council's reasons for refusal were clear and precise, making reference to relevant development plan policies.
6. The Council's Officer report and to a lesser extent the appeal statement show that the technical reports submitted with the original application were considered, albeit there was a difference in view between the main parties. This is not unreasonable behaviour of the Council, but is based upon both parties giving different weight to expert opinion, particularly with regard to arboricultural and living condition matters.
7. Expert opinion informed one of the reasons for refusal with regard to the permissions and agreements required from relevant authorities for a new sewer and its connection. The appellant has provided the relevant confirmations for both the application and the appeal, but despite this the reason for refusal was imposed. However, the application was refused on the 21 March 2024, and the date of the email from Wessex Water was the 19 March. What has not been confirmed by either of the main parties is when the Council were sent and received this email. If the case officer did not receive the confirmation before making a decision, it would not have been unreasonable to refuse the scheme for lack of information.
8. Staffing shortages appear to have been responsible for the confusion as to whether the Council had provided an appeal statement, which is poor service rather than unreasonable behaviour, particularly as two were provided. A correction was subsequently made to the Council's Arboricultural Statement with regard to the naming of a particular tree. This mistake was remiss of the Council, but the mistake was acknowledged and corrected, and the Council's evidence as a whole made it clear which tree was of concern, particularly as it was specifically referred to in the reason for refusal. It is not the case that the Council introduced a new or different reason for refusal at a late stage.
9. The appellant addressed two reasons for refusal with the submission of the unilateral undertaking (UU), and although during the appeal process the Council were offered an opportunity to comment on the UU, for whatever reason there was no response. This is again remiss of the Council, but the submission of the UU with the appeal to address the reason for refusal would have been a decision for the appellant to make.
10. The Council places reliance on the officer report for the appeal, with the statements providing further explanation of specific issues. The officer report refers to the Council having a housing land supply shortfall. A planning balance of the scheme weighing the benefits and harms has been undertaken, albeit not as detailed as that provided by the appellant.
11. This is a complex application raising a number of issues, and in such cases matters of judgement are involved that are at times finely balanced. The scheme raises particular considerations that the Council gave a different weight to than the appellant. There have been a factual errors within both the officer report and the Council's appeal statement, but these mistakes have been corrected, and the mistakes have not fundamentally altered any of the reasons for refusal nor the decision to refuse the scheme. It is not the case that development that should have been permitted has been prevented or delayed, and the decision to appeal and when would have been one for the appellant to make.

12. For these reasons, unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has not been demonstrated. Accordingly, the application for an award of costs is refused.

J J Evans

INSPECTOR