

Costs Decision

Site visit made on 6 September 2016

by David Walker MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 October 2016

Costs application in relation to Appeal Ref: APP/D0121/D/16/3155350 53A Dial Hill Road, Clevedon, North Somerset BS21 7EW

- 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 Terry Macleod for a full award of costs against North Somerset Council.
 - The appeal was against the refusal of planning permission for erection of single and two storey extensions, raise level of roof, construction of dormer windows and a balcony and erection of a conservatory.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary and wasted expense in the appeal process.
 3. Consideration was given by the Council, as set out in the Officer's Report, to the guidelines contained within its Residential Design Guide 2013 (RDG). However, there is no acknowledgement that the proposed dormer window contained within the revised plans was intended to serve an en-suite bathroom to the main bedroom of the dwelling. In the circumstances the Council failed to recognise that the RDG specifically addresses the scope to avoid unwanted overlooking from new bathroom windows by the use of obscure glazing.
 4. I acknowledge that the submitted plans did not show or annotate an en-suite bathroom. This may have been a factor in the Council's assessment. However, the planning application form clearly states at section 6 the reasons for the additional dormer window being proposed.
 5. While I have some sympathy with the Council over the level of detail contained within the submitted plans it will be apparent from my decision that I regard the advice contained within the RDG as a significant consideration. Moreover, the mitigation the RDG promotes in the form of obscure glazing could have been secured by a suitable condition that would have enabled the development to go ahead.
 6. The Council's failure to take these factors into account in reaching its decision has resulted in the refusal of planning permission and the appellants have been
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faced with the unnecessary expense of pursuing an appeal. This amounts to substantive unreasonable behaviour under the PPG that has directly led to the submission of the appeal.

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that an award of costs is justified.

Costs Order

8. 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 North Somerset Council shall pay to Mr and Mrs Terry Macleod, the costs of the appeal proceedings described in the heading of this decision.
9. The applicant is now invited to submit to North Somerset 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. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

David Walker

INSPECTOR