
Costs Decision

Site visit made on 13 June 2017

by Timothy C King BA (Hons) MRTPI

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

Decision date:

**Costs application in relation to Appeal Ref: APP/D1590/D/17/3171286
31 Lynton Road, Thorpe Bay, SS1 3BE**

- 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 & Mrs McCoy for a full award of costs against the decision of Southend-on-sea Borough Council.
 - The appeal was against the refusal of an application for two-storey front & rear extensions, single storey and two storey side extension and formation of loft room with rear dormer, single storey summer house at rear and rear swimming pool.
-

Decision

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

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The guidance makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal
3. The basis of this costs application is that the Council has failed to produce evidence to support its decision. While the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In this instance the officer's recommendation was overturned and the Council's committee resolved to refuse planning permission.
4. The sole reason for refusal does not actually specify which particular aspects of the proposal it objects to, merely indicating that the extended dwelling's close proximity to the neighbouring dwelling would result in a bulky and cramped form of development, harmful to the streetscene. The case report, which I consider to be a comprehensive and well reasoned assessment, found otherwise and there is nothing before me to properly substantiate the decision reached.
5. In the circumstances I conclude that the refusal of planning permission constitutes unreasonable behaviour contrary to the advice within the PPG and the appellants have been faced with the unnecessary expense of lodging the appeal and felt fit to employ a professional agent in this regard.

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

Costs Order

7. 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 Southend-on-sea Borough Council shall pay to Mr & Mrs McCoy, the costs of the appeal proceedings described in the heading of this decision.
8. The applicant is now invited to submit to Southend-on-sea Borough 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.

Timothy C King

INSPECTOR