
Costs Decisions

Site visit made on 31 October 2017

by Rory MacLeod BA MRTPI

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

Decision date: 29 January 2018

Costs application in relation to Appeal Ref: APP/F0114/D/17/3180753 Hay Tor, Old Midford Road, South Stoke Bath BA2 7DH

- 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 Dr Adrian Done for a full award of costs against Bath & North East Somerset Council.
 - The appeal was against the refusal of planning permission for erection of a garden building following demolition of existing building.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Planning application 17/00539/FUL for the erection of a garden building following demolition of an existing building was refused permission for three reasons. Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal. These reasons essentially distilled into the issues I have identified in the appeal decision.
3. It will be seen from my decision that I agree with the Council that the proposal amounts to inappropriate development in the Green Belt, that it would result in harm to the openness of the Green Belt and that the other considerations forwarded by the appellant do not amount to the very special circumstances necessary to justify the development. The delegated report concludes that the proposal would be contrary to local and national Green Belt policies. It made an assessment in relation to the permitted development fallback position and applied weighting to this in reaching a conclusion and justifying the decision to refuse planning permission. Whilst the appellant has come to a different opinion in relation to these matters, the Council has provided a full substantiation of the Green Belt refusal reason.
4. I concur with the Council's view that the outbuilding proposed as part of this planning application would lead to greater harm to the openness of the green belt than a permitted development alternative which whilst possibly larger would be required to be located closer to the dwelling in a less open position.
5. In relation to the first two refusal reasons, whilst my findings have not supported the Council's case, a reasoned justification has been provided. The degree to which the proposal would affect local character is a matter of judgement. The Council has assessed the proposal through site inspections and

analysis of aerial imagery in relation to the character of the area and analysis of relevant planning policies. The delegated report correctly refers to the proposal's greater height and mass than the building to be demolished and to its more open location. The report then finds that the outbuilding would thereby be harmful to the appearance of the street scene and to the rural landscape character. Whilst I have disagreed with these findings, the Council has set out a reasoned case.

6. Accordingly, I do not consider that the Council has failed to properly evaluate the proposal. My findings are that unreasonable behaviour resulting in unnecessary or wasted expense, as described in PPG, has not been demonstrated.

Rory MacLeod

INSPECTOR