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## Costs Decision

Site visit made on 13 March 2018

**by Mrs J Wilson BA BTP MRTPI DMS**

**Inspector appointed by the Secretary of State**

**Decision date: 1<sup>st</sup> June 2018**

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### **Costs application in relation to Appeal Ref: APP/G1250/W/17/3186600 1 Baring Road, Bournemouth BH6 4DS**

- 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 Wheeler for a partial award of costs against Bournemouth Borough Council.
  - The appeal was against the refusal of planning permission for the erection of a detached dwelling at the rear of the site with associated access and parking.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The basis of this costs claim is that the Council has behaved unreasonably in relation to reasons 3, 4, 5 and 6. In relation to condition 3 it is asserted that the Council failed to notice the glazing information detailed in the design and access statement, Regarding conditions 4 and 5 (drainage and access respectively) additional information was not provided to address these issues until the appeal process. It is suggested that additional work and architects fees including the appointment of a planning agent could have been avoided had there been an effective dialogue with the Council. In contrast the Council state there was no pre-application discussion and as there were fundamental concerns, narrowing the grounds would not have enabled the development to be delivered and may even have protracted the application process.
4. The omission by the Council in failing to note the annotation regarding obscure glazing of rear windows in the design and access statement was unfortunate and it is possible that this issue together with surface water and highways would have been capable of being resolved through discussion or the use of conditions. However these matters do not fundamentally undermine the Councils refusal. In practice these issues were responded to briefly and there is little to substantiate that they led to unnecessary time or expense by way of rebuttal, preparation of additional information or that they necessitated additional architects drawings other than annotations on the original plans.
5. I understand the appellants' frustration in an apparent lack of consistency

between this decision and others in the approach to conditions however I am satisfied that the Council was able to substantiate its reasons for refusal in relation to the original plans and did not act unreasonably in reaching their decision on that basis. I have little evidence of substantive amounts of additional work involved in responding on these matters. The appeal would in all likelihood have proceeded in relation to the other contested issues even if those relating to conditions 3, 4, 5 and 6 had been resolved beforehand.

6. Consequently, it has not been demonstrated that the Council acted unreasonably and caused unnecessary additional expense in the appeal process and therefore a partial award of costs has not been justified.

*Janet Wilson*

INSPECTOR