



Costs Decision

Site visit made on 11 March 2020

by Martin Whitehead LLB BSc(Hons) CEng MICE

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

Decision date: 19 March 2020

Costs application in relation to Appeal Ref: APP/M4320/W/19/3236720 2 and 2A Fishermans Close, Formby L37 1XX

- 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 Fletcher for a full award of costs against Sefton Metropolitan Borough Council.
 - The appeal was against the refusal of an application for planning permission for Variation of Condition No 2 attached to planning application DC/2017/01128 refused 20 October 2017 - allowed on appeal 19 April 2018 ref APP/M4320/W/18/3194662 - for alterations to the roof designs and elevations, without complying with a condition attached to planning permission Ref DC/2018/01822, dated 19 November 2018.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 Council has acknowledged that there has been a change in circumstances from the previous permission granted on appeal. Whilst the amended plans in Condition 2 of the permission indicate that the dressing room and en-suite to Bedroom 2 are retained, these rooms have not been provided and the window directly serves the bedroom. As the Council has not suggested that this change is unlawful, the planning condition no longer meets the tests in the PPG.
4. I have found that there is no unacceptable overlooking of 3 Fishermans Close from the bedroom window of Fletcher House and the distances between the window and the boundary with that property comply with the Council's recent guidance on new houses. The Council has therefore acted unreasonably in refusing an application to remove the planning condition which clearly should have been permitted.
5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

6. 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 Sefton Metropolitan Borough Council shall pay to Mr and Mrs Fletcher, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
7. The applicant is now invited to submit to Sefton Metropolitan 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.

M J Whitehead

INSPECTOR