
Costs Decision

Site visit made on 7 January 2021

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 01 February 2021

Costs application in relation to Appeal Ref: APP/V1260/W/20/3257128 22A Exton Road, Bournemouth BH6 5QF

- 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 Jake Hayward for a full award of costs against Bournemouth Christchurch and Poole Council.
 - The appeal was against the refusal of planning permission for roof extension and conversion including raising the ridge 650mm and rear dormers.
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Decision

1. The application for an award of costs is partially 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 assessed the impact of the proposed balcony in relation to the prevailing character of the surrounding area and the specific guidance on balconies in its Residential Extensions Design Guide. While its analysis was relatively brief, it nevertheless set out a reasoned justification for its conclusion that this element of the proposal would be out of character with the area, and had regard to relevant development plan policies and material considerations. Consequently, in relation to the proposed balcony I find that the Council adequately substantiated its reason for refusal.
4. When assessing the proposed dormer to bedroom 5, the Council sought to apply the guidance in its Design Guide, which requires consideration of whether a proposal would be overbearing or oppressive to neighbours. The analysis considered the relationship of the proposed dormer to that garden, and reference was made to its angle, proximity and height. An impact on privacy is implied in references to the outlook from the proposed window, but did not form part of the Council's case for refusal. The Council's evidence was therefore unclear in terms of the harm that would actually be caused by a dormer in the position proposed.
5. Moreover, the Council did not consider the impact of the proposed dormer in the context of the scale of the proposed development as a whole, or compared to what was already experienced by the occupiers of No 3 due to its existing relationship with its neighbours. From the evidence before me, I cannot be

certain that the Council would have reached the same conclusion had it considered these matters.

6. Accordingly, I find that the Council's assertions about the impact of the proposed dormer were vague and were not supported by an objective analysis taking into account all relevant matters. This was unreasonable behaviour.
7. Because of this, the applicant had to cast broadly about to try to address this aspect of the reason for refusal in their statement of case and final comments. Consequently, they incurred unnecessary and wasted expense in preparing arguments which would not have been necessary if the Council's assessment had been specific and considered all matters relevant to the proposed dormer.

Conclusion

8. The Council's reason for refusing planning permission, as set out in its decision, consists of two distinct elements, relating firstly to the proposed balcony and secondly to the proposed dormer to serve bedroom 5. I have found that the Council behaved unreasonably in reaching the second of these conclusions but not the first.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a partial award of costs is justified in relation to the expense incurred by the applicant in contesting the second part of the Council's reason for refusal.

Costs Order

10. 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 Bournemouth Christchurch and Poole Council shall pay to Mr Jake Hayward, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in arguing against the Council's objection to the proposed dormer to bedroom 5; such costs to be assessed in the Senior Courts Costs Office if not agreed.
11. The applicant is now invited to submit to the 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.

L McKay

INSPECTOR