
Costs Decision

Site visit made on 3 October 2025

by **O Tresise MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 January 2026

Costs application in relation to Appeal Ref: APP/D0121/W/25/3368923

Glen Orchy, Lake Road, Portishead, North Somerset BS20 7JA

- 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 Edward Robertshaw for a full award of costs against North Somerset Council.
 - The appeal was against a grant of planning permission subject to conditions for the erection of a two storey extension, removal of existing pitched roof at first floor level, enlargement of first floor and erection of new pitched roof, removal of existing side pitched roofs to single storeys and replacement with flat roofs (one to be a green roof) and changes to fenestration.
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Decision

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

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur wasted or unnecessary expense in the appeal process.
3. The applicant asserts that the Council behaved unreasonably in removing permitted development rights and failed to take account of the existing restrictions within those rights.
4. In this case, the Council's report set out the factors that led it to its conclusion on the planning merits of the case. The Council assessed the submitted scheme against the relevant development plan policies. The proposed plans demonstrate that there would be no openings on either side elevation, and the Council had regard to the site context, including the relationship of the dwelling to adjoining properties. On this basis, the Council correctly concluded that the consented scheme, as originally submitted, would not have an adverse effect on neighbouring properties.
5. Notwithstanding the description of the resulting building in the Council's report, the submitted drawings show the enlargement of the first floor living accommodation. Given the layout shown on the plans, the scale of the proposal, the siting of the properties and its proximity to adjoining dwellings, it was reasonable for the Council to consider whether permitted development rights should be removed.
6. As set out in my main decision, the removal of permitted development rights with respect to windows and dormers was both necessary and reasonable. The Council

undertook a reasoned assessment in reaching its decision. I cannot therefore find it behaved unreasonably in imposing a restriction of windows and dormers.

7. As also set out in my main decision, the removal of permitted development rights with respect to rooflights was neither necessary nor reasonable. The Council's supporting reasoning was vague and insufficiently substantiated. Whilst I note the intention to safeguard the privacy of neighbouring properties, rooflights are materially different in nature from windows and dormers by virtue of their location and orientation. In this instance, the Council appears to have treated all forms of openings as a single category, rather than assessing their potential effects individually. I therefore find that the Council behaved unreasonably in imposing a restriction on rooflights. It follows that the costs incurred by the applicant in addressing this part of the disputed condition at appeal were unnecessary.
8. The applicant asserts that the Council misuse Policies DM32, DM38 and SPD1. The North Somerset Sites and Policies Plan (NSSPP) is an adopted development plan. Policy DM32 of the NSSPP states that the design and layout should not prejudice the living conditions for the adjoining occupiers through loss of privacy and overlooking. Policy DM38 is particularly related to proposals to extend existing residential properties, and it echoes the requirements set out in Policy DM32. Therefore, the Council correctly applies these policies on the appeal proposal.
9. The applicant asserts that the Council misapplied the relevant supplementary planning document (SPD). However, an SPD provides guidance to assist in the interpretation and application of development plan policies; it does not remove the requirement for the Council to consider the specific circumstances of each case. The use of the SPD as a guidance, rather than a prescriptive rule, is consistent with its intended purpose and does not constitute a misapplication. I note that a S73 application has been recently approved. However, as set out in my main decision, it is not directly relevant given the differences between the two schemes.
10. For the reasons given above, unreasonable behaviour resulting in unnecessary expense has occurred and a partial award of costs is therefore warranted.

Costs Order

11. 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 North Somerset Council shall pay to Edward Robertshaw, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in addressing the restriction of rooflights; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to North Somerset Council, to which a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

O Tresise

INSPECTOR