



Costs Decision

Site visit made on 8 November 2017

by C J Ball DArch DCons RIBA IHBC

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

Decision date: 17 November 2017

Costs application in relation to Appeal Ref: APP/X1165/D/17/3181338 31 Loxbury Road, Torquay TQ2 6RS

- 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 Hornabrook for a full award of costs against Torbay Council.
 - The appeal was against the refusal of planning permission for a side extension to southern elevation with rear balcony; additional parking space at top driveway level and reconfigured entrance.
-

Decision

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

Reasons

2. The Planning Practice Guidance 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 appellants' claim centres on the conduct and decision making process of the committee members who refused the application against the considered professional advice of their officers.
4. It was made clear to the appellants that the officer's pre-application advice did not include the results of external consultation and is not binding on the Council. Following objection from the neighbour a site visit was held and members gave weight to that objection. While there was evidently some confused discussion on how best to define the objection and to word the reason for refusal, following legal guidance members crystallised the objection as loss of light and over-dominance, leaving the drafting of the reason to their officers.
5. The live workings of local democracy can come as a shock. Nonetheless the members' reasons for overruling their officers, on a matter of judgement, were based on sound planning grounds. Although, following my own site visit, I have come to a different view on the balance of considerations, this does not necessarily mean that the Council acted unreasonably.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Colin Ball

Inspector