

Costs Decision

Site visit made on 3 January 2019

by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th January 2019

Costs application in relation to Appeal Ref: APP/X1118/W/18/3204671 Venn House, Road Past Venn House, Bideford EX39 4LZ

- 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 & Mrs Martin Smith for a full award of costs against North Devon District Council.
 - The appeal was against the refusal of planning permission for a new dwelling with curtilage including access and services.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application is primarily made on the basis that the Council did not provide a response to the design case made by the applicants' and that the Council's design analysis was flawed. In addition, the applicants raise concerns that the Council only provided details of its reservations late in the consideration of the application which included matters not previously raised at an earlier site meeting.
4. The PPG advises that local planning authorities will be at risk of an award of costs against them if they prevent development which should clearly be permitted or fail to produce evidence to substantiate each reason for refusal.
5. Even if the Council did not set out all of its concerns at a site meeting this would not necessarily represent unreasonable behaviour. It is reasonable for an appointed planning officer to take some time to consider a proposal before setting out full detailed concerns. I also note that the planning officer did raise concerns in respect of the proposed height of the building at the site meeting. In response to this, the applicants amended the roof design to include a half-hip. This would go some way to reducing the bulk of the roof form, but it would not reduce the overall height. On the evidence before me, it therefore appears that the applicants did not seek to fully address issues raised at the meeting.
6. The wording of the applicants' letter, dated 24 May, did not suggest that they were seeking to provide further amendments. The plain reading of this was that the applicants wished the proposal to be considered as it was. It also seems that, following the refusal of the application, no attempts were made to

discuss an amended scheme before making a decision to lodge the appeal. This indicates that the applicants wished to pursue the scheme as submitted.

7. Fundamentally the applicants' case is that the Council's design concerns were flawed and thereby the planning application should have been approved. In view of my conclusion in the appeal decision it is evident that I do not agree. This is not a situation where the development should clearly have been permitted and the Council's reason for refusal was adequately substantiated.
8. I have noted the comments in respect of the appointed agent's experience of the Council's pre-application service. This however does not relate to the appeal development in question and so it does not indicate that the Council has acted unreasonably in this case.
9. I therefore find that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

K Taylor

INSPECTOR