The Planning Inspectorate

Costs Decision

Site visit made on 11 June 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th July 2019

Costs application in relation to Appeal Ref: APP/P1133/W/19/3225086
1 Kits Close, Chudleigh, Devon TQ13 0LG

- 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 Eddie Howe for a full award of costs against Teignbridge District Council.
- The appeal was against the refusal of planning permission for ground floor flat roof extension to the rear of the property and a new two storey extension to the side of the property, including garage. Existing pitched roof to be raised with the introduction of new dormer and velux windows.

Decision

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

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. Paragraph 049 of the PPG provides examples of reasons where an award of costs against a local planning authority might be warranted. Amongst these are if they behave unreasonably with respect to the substance of the matter under appeal. An example of this being where they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.

4. The claimant's case is that the Council acted unreasonably by the withholding of planning permission, which is in accordance with development plan policy. He sets out that the reasons for refusal cannot be sustained and that he was unable to respond on the question of alleged loss of light.

5. He has cited advice given to Planning Committee members in a joint publication by the Planning Advisory Service and Local Government Association, 'Probity in Planning for Councillors and Officers'.

6. I have not been provided with a copy of this. However, I am told that it suggests four steps are taken before a committee makes a decision contrary to an Officer's recommendation. I cannot be sure whether any or all of these steps were taken. However, the evidence before me suggests that the matter was fully assessed by the Planning Committee, including with regards to the

loss of light to the occupants of 3 Kits Close. Its decision was made after three separate stages of assessment, including a site inspection by Members.

7. Planning Committees do not, of course, have to follow the advice given to them by Officers. However, should they refuse permission against Officer's recommendation, it is incumbent on the Council to be able to substantiate the reasons given. When this happens in an appeal against an application for a 'householder' development, there is a difficulty for the Council as they do not have the opportunity to submit a statement of case.

8. In these circumstances, they are reliant on the terms of the decision notice and any minutes of meetings. I have not been provided with any minutes in this case. However, although I have found against its reasoning in my appeal decision, the Council's decision notice set out clearly those areas of concern on which the Planning Committee based its case. Although I reached a different conclusion on the merits of the case, it was a finely balanced decision and the fact that committee members took a different position is not evidence of unreasonable behaviour.

9. I am not sure why the appellant was unable to respond to Committee on the loss of light, as it seems that this was raised at each of the three stages of assessment. Whether he would have been able to overcome this by speaking at Committee is debatable. In any event, the submissions that he has made on the matter are only a small part of his overall case and would not have incurred a great deal of time or expense.

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Roy Curnow

INSPECTOR