



Costs Decision

Site visit made on 7 June 2019

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision Date: 15th July 2019

**Costs application in relation to Appeal Ref: APP/P1615/W/19/3222981
Land to the back of 1 Methyr Terrace, Upper Lyndbrook, Lyndbrook GL12 9PT**

- 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 the Forest of Dean District Council for a partial award of costs against Ms Julia Ridlington.
 - The appeal was against the refusal of planning permission for the erection of a 2 storey, 2-bed detached eco house with off-street parking.
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Decision

1. The application for a partial 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 52 of the PPG states that unreasonable behaviour can be demonstrated if the appellant introduces fresh and substantial evidence at a late stage necessitating extra expense for preparatory work that would not otherwise have arisen.
4. In this particular case the appellant after the determination of the scheme and during the appeal process submitted plans¹ showing a number of options for the refused scheme that included a change in roof form and overall design of the dwelling, the treatment of the front façade, and changes to the garden layout. Additionally, the appellant also submitted new plans and email correspondence² as part of the appeal relating to the highway and access. None of the plans were subject to consultation or review by the planning officer during the determination of the planning application.
5. Whilst minor in change, these changes required the Council Officers to review the additional information and provide comment upon as part of this appeal in order to defend their position. In general the appeal process is not the appropriate place to evolve the scheme; and the scheme that is considered at appeal ought to be the same one that was considered by the Council. Whilst some minor alterations during the appeal process may have been acceptable

¹ Plans titled: 12. House Variations; 13. Street Elevations proposed; 4. Front and rear elevations; 5. Side elevations existing and proposed; 3. proposed plans; 6. sections; 7. Site plan and textures; 11. Planting Strategy; 23. Proposed Trees; 22. Existing trees; 24. Garden Privacy.

² Plans titled: 19. Visibility sightlines; 18. Parking Details; and 20. Swept Path Analysis (SPA); Email correspondence between Julia Ridlington and Richard Jefferies, dated 17 and 18 January 2019

such as correcting an error etc, which does not have a major impact upon the decision, however the additional information that was submitted during the appeal required the Council to review it.

6. With regards to the submission of further information to address highway concerns, this was an acceptable form of additional information which assisted in clarifying the issue with regards to highways matters. The Council had to defend its case with regards to the highway matters in any event and as such, I do not feel that the appellant has acted unreasonably in this respect of seeking further clarification in an attempt to remove one of the refusal reasons.
7. With regards to the submission of an additional 3 options, I do believe in this case that the appellant has behaved unreasonably. However, the PPG in awarding costs seeks to understand two issues, first that being whether the party has acted unreasonably, and second whether this has resulted in unnecessary and wasted expense. The Council mentions the options put forward by the appellant in Paragraphs 5.3 and 5.4 of their appeal statement, however just mentions this had occurred, rather than going into a detailed analysis of each individual option and an accompanying assessment as to its appropriateness.
8. I note that the appellant was also unrepresented and it appears to me that the appellant felt that they were trying to relieve the condition without an appreciation of the appeals process. Whilst I believe the appellant did behave unreasonably in the submission of the additional options, I do not feel that the amount of work Council undertook in response resulted in a substantial amount of time which would have resulted in unnecessary and wasted expense.
9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

J Somers

INSPECTOR