
Costs Decision

Site visit made on 9 July 2019

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2019

Costs application in relation to Appeal Ref: APP/P1133/D/19/3228527 12 Applegarth Avenue, Newton Abbot TQ12 1RP

- 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 James & Imogen Anderson for a full award of costs against Teignbridge District Council.
 - The appeal was against the refusal of planning permission for the removal of existing garage and conservatory and extensions to the south and east elevations of the existing dwelling.
-

Decision

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

Reasons

2. The Planning Practice Guidance advises that, irrespective of the outcome of the appeal, 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 applicants state that a lack of communication leading up to the Council issuing its decision notice, and post issuing the decision notice, have denied them any right to negotiate a suitable outcome. Furthermore, the applicants consider that the Council has failed to act in accordance with the positive and proactive approach set out within paragraph 38 of the National Planning Policy Framework (the Framework).
4. The Council has acknowledged that the applicants could have been notified of the intention to refuse the application, but that it was under no statutory duty to do so. It considered that the proposal could not have been amended to result in an acceptable scheme and substantiated its decision with a full and objective analysis of the planning merits.
5. Whilst I have concluded differently to the Council in my Appeal Decision, I consider that the main issue was a matter of planning judgement. Furthermore, the Council has substantiated its refusal with clear reasons provided in its evidence. Similarly, it was a judgement as to whether an alternative scheme could have been negotiated to the satisfaction of both parties. The Council's concerns, as set out within its delegated report, were clearly substantiated and make it apparent that no reasonable alternative scheme could have been negotiated without fundamentally altering the proposal. Those conclusions led it to issue the decision without further delay.

6. Additionally, I note that the decision notice makes explicit reference to paragraph 38 of the Framework. Therefore, at the time of issuing its decision the council was evidently mindful of the need to seek positive solutions to enable the grant of planning permission where possible. Furthermore, from the evidence provided I can see that the case officer, albeit several weeks later, did reply to the appellant's post decision communication.
7. In conclusion, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

James Taylor

INSPECTOR