
Costs Decision

Site visit made on 29 July 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2019

Costs application in relation to Appeal Ref: APP/X1165/D/19/3227318 60 Steed Close, Churston with Galmpton, Paignton TQ4 7SN

- 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 Barry Cole for a full award of costs against Torbay Council.
 - The appeal was against the refusal of the Council to grant planning permission to remove existing white cladding on one side of wall and replace with Fortex UPVC embossed Weather board cladding to all four top sides of property, colour either Storm Grey or Sage Green.
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Decision

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

Procedural Matter

2. I have amended the description of development in this decision, for the reasoning given in my decision on the planning appeal.
3. It is unclear whether the application is for a partial or full award of costs. In the light of the submissions, I have taken it to be the latter.

Reasons

4. The section on Appeals in the Planning Practice Guidance ('the 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.
5. Its Paragraph 049 provides examples of reasons where an award of costs against a local planning authority might be warranted. Awards can be made on procedural grounds, that is related to the process, or substantive grounds, that is relating to the issues arising from the merits of the appeal.
6. The appellant's case is based on the costs for the planning application and the purchase of a site plan he incurred at the application stage. He goes on to say that, given that the Council informed him that no form of cladding would be accepted on the estate, he has been penalised for doing the right thing.
7. The Council has not responded to the application for an award of costs.
8. Paragraph 033 of the PPG explains that costs cannot be claimed for the period during the determination of the planning application. It goes on to say that behaviour and actions at the time of the planning application can be taken into

account in the Inspector's consideration of whether or not costs should be awarded.

9. During the processing of the application, in response to an enquiry from the then applicant, the Council e-mailed him to say that it would not support the addition of any cladding to 60 Steed Close. This e-mail was sent after the application had been with the Council for several weeks and followed consultation with the Officer's Team Leader.
10. It is difficult to see how this decision could have been made at the registration stage, when the Council helped with the correct content for the application. At this stage, the site would not have been visited and a professional assessment of the planning merits of the proposed development would not have been undertaken. Officers were simply carrying out their duties in providing their views on what was proposed. Having done so, it would not have been in a position to refund costs accrued at the application stage.
11. In the circumstances, the Council cannot be liable for the costs of the appeal. Its actions at the application stage were not unreasonable and did not lead to unnecessary or wasted expense at the appeal stage. It was the applicant's choice to lodge an appeal and, as set out in Paragraph 028 of the PPG, parties in planning appeals and other planning proceedings normally meet their own expenses.
12. 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.

Roy Curnow

INSPECTOR