
Costs Decision

Site visit made on 9 September 2019

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2019

Costs application in relation to Appeal Ref: APP/Y1110/D/19/3230494 1 Shapter Cottages, White Street, Topsham EX3 0AD

- 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 Sam Moreton for a full award of costs against Exeter City Council.
 - The appeal was against the refusal of planning permission for a single storey extension with glazed link.
-

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 applicant states that the variance between the positive pre-application advice and the decision of the Council to refuse the application is unreasonable. They state that had they received the same feedback during their pre-application, as they did at the formal planning application stage, then they would not have amended the scheme and would not have submitted a planning application or a planning appeal. Furthermore, the applicant highlights that there was no change in planning policy, or the scheme, between the positive pre-application conclusion and the submission of the planning application.
4. I do not have full details of the pre-application advice that was issued or the negotiations that took place. However, it is common practice for such advice to be caveated as the informal opinion of an officer and not binding on future formal decisions made by the local planning authority. Furthermore, pre-application discussions are confidential and therefore not subject to statutory consultation, the outcome of which is material to the determination of planning applications.
5. Whilst consistency within decision making is important, during the course of the planning application objections from various parties were received and would have formed material considerations in the determination of the formal planning application. This is information that the Council's officer could not have considered at pre-application stage. These representations would necessarily have contributed to a further assessment of the planning merits of the scheme at the planning application stage.

6. Whilst my overall Appeal Decision upholds the Council's conclusion to refuse planning permission, I have concluded differently to the Council in a number of respects. Furthermore, I am mindful that I have also concluded differently to the informal pre-application advice provided. I consider that this illustrates that the main issues are a matter of finely balanced planning judgement. Whilst the Council's reasons for refusal may not be consistent with the pre-application advice, importantly its formal decision was substantiated with clear reasons provided in its evidence.
7. Therefore, in conclusion, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

James Taylor

INSPECTOR