



Costs Decision

Site visit made on 9 February 2021

by C J Ford BA (Hons) BTP MRTPI

a person appointed by the Secretary of State

Decision date: 8 March 2021

Costs application in relation to Appeal Ref: APP/K1128/D/20/3263157 3 Edwards Close, Thurlestone, Kingsbridge TQ7 3BP

- 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 David Gibby for a full award of costs against South Hams District Council.
 - The appeal was against the refusal of planning permission for first floor extension to form new study/hobby room.
-

Decision

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

Reasons

2. The Planning Practice Guidance (‘PPG’) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. It adds that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis.
3. The planning application was refused by the Council’s planning committee, contrary to officer recommendation. When refusing planning permission, a Council is required to state clearly and precisely in its decision notice the full reasons for the refusal. Irrespective of whether the impact upon the amenity of nearby properties was debated at length during the committee meeting and was of great concern to members, the minutes of the meeting and the single stated reason for refusal solely concerned the impact on the appearance of the dwelling and the character and pattern of development locally.
4. Consequently, as it was not relevant to the stated reason for refusal, Policy TP1 (part 1) of the 2018 made Thurlestone Neighbourhood Plan, which specifically relates to residential amenity, should not have been included within the notice’s list of policies that the development would be contrary to. The inclusion of the policy reference naturally infers the proposal would have an adverse impact in respect of residential amenity and this is unsupported by the Council’s own objective analysis, as primarily denoted by its absence from the stated reasons for refusal. Its inclusion therefore amounts to unreasonable behaviour.

5. However, while unreasonable behaviour by the Council has been established, costs can only be awarded where the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
6. While Policy TP1 (part 1) was taken into consideration by the Council, it was not determinative in its decision to refuse the application and the appellants were able to address it very briefly in only a few words in their appeal statement. The identified impact on the appearance of the dwelling and the character and pattern of development was the decisive matter, including its conflict with Policy TP1 (part 2) and other development plan policies. This view was supported in the appeal decision. As the appellants reasonably had to address this matter through an appeal, they did not incur any wasted expense. Therefore, a full award of costs is not justified.

C J Ford

PLANNING DECISION OFFICER