



Costs Decision

Site visit made on 24 February 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2021

Costs application in relation to Appeal Ref: APP/X1118/D/20/3264922 2 Broadgate Close, Barnstaple EX31 4AL

- 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 and Mrs Chris and Heather Peyton and Lane for a full award of costs against North Devon District Council.
 - The appeal was against the refusal of planning permission for extension to existing dwelling.
-

Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicants assert that the planning application was not judged fairly, as the benefits of the scheme were not balanced against the perceived harms. Also, the presumption in favour of sustainable development, pursuant to Paragraph 11d) of the National Planning Policy Framework (the Framework), should have been applied. The reasons for refusal are subjective, vague and unsupported by any objective analysis. The Council did not attempt to engage in a positive or proactive manner to achieve a scheme which could have been acceptable, and delayed development which should have been permitted.
4. Issues of character and appearance have an inherent degree of subjectivity. In this case, the Council's officer report provides a substantive analysis of the scheme, drawing on the situation on the ground, using the facts of the case to offer up objectively based reasoning. Given such, whilst I have ultimately disagreed with the Council in my decision, a reasonable justification for its position has been made, and it is not the case that the proposed development is one that should have been clearly permitted by the Council.
5. Whilst the applicants' appeal evidence ascribes benefits to the proposal, it is unclear if these were articulated prior to the appeal. The appeal procedure did not allow the Council an opportunity to respond to them. In any event, the officer report directly refers to, and was therefore cognisant of, Section 38 of the Planning and Compulsory Purchase Act 2004, which provides a duty for decision makers to determine applications in accordance with the development plan unless material considerations indicate otherwise.

6. The absence of a five-year supply of deliverable housing sites can provide the circumstances where the presumption in favour of sustainable development is engaged. However, pursuant to footnote 7 of Paragraph 11d), this relates to schemes for the provision of housing, and not therefore residential extensions. As such, regardless of whether or not the Council can demonstrate a five-year supply of deliverable housing sites, the Council was correct not to apply the presumption in favour of sustainable development in this case.
7. Similarly, the officer report identifies the need for proactive engagement, but concludes that the Council could not identify a way of securing a development that improves the economic, social and environmental conditions of the area. Given the Council's fundamental concerns about the Bellaire Avenue building line, this is a logical conclusion. The Council should not necessarily be expected to proactively engage where it perceives there to be an insurmountable conflict with the development plan.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is not justified.

Matthew Jones

INSPECTOR