
Costs Decision

Site visit made on 19 October 2021

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 01 November 2021

**Costs application in relation to Appeal Ref: APP/X1165/D/21/3276942
11 Ramshill Road, Paignton TQ3 3PN**

- 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 Mathew Wyatt for a full award of costs against Torbay Council.
 - The appeal was against the refusal of planning permission for the construction of extra storey on a single storey extension to rear of property.
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Decision

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

Preliminary Matters

2. The application for costs does not expressly indicate whether the Applicant is seeking a full or partial award of costs against the Council. However, on the basis of the information before me, I consider that the application seeks a full award of costs and I have determined this matter on that basis.

Reasons

3. Planning Practice Guidance 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. Parties in planning appeals and other planning proceedings normally meet their own expenses.
4. In this instance the costs application before me consists of a copy of an invoice with no additional details or submissions. However, as noted in the appeal decision, there does appear to be concern from the Applicant that the Council applied what is described as the "45 degree rule" in respect of the contention that the appeal scheme would adversely affect the living conditions of neighbours with regards to loss of light. However, it will be seen from my decision that it is apparent that no such consideration was made by the Council, but that rather the Council assessed the planning application with reference to Policy DE3 of the Torbay Local Plan 2012-2030.
5. Notwithstanding the above, and even in the event that it was found that the appeal proposal would not have an adverse effect with regards to loss of light, I also find that the information contained within the officer's report to have been well constructed and comprehensive in terms of the overbearing impact of the appeal scheme on occupants of the neighbouring dwelling. This is a separate consideration to loss of light. As such and given that I have found that

the proposal does not comply with local and national planning policy in respect of overbearing impact and loss of outlook, I conclude that the Council have not acted unreasonably in relation to this concern.

6. Therefore, for the reasons above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated. Consequently, no award of costs is made.

A Spencer-Peet

INSPECTOR