



Costs Decision

Site visit made on 3 November 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2021

Costs application in relation to Appeal Ref: APP/X1165/D/21/3278248 9 Rhodanthe Road, Preston, Paignton TQ3 1RD

- 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 L Bayliffe for a full award of costs against Torbay Council.
 - The appeal was against the refusal of planning permission for '*retrospective to agree works for dormers with windows, rear terrace and rear extension*'..
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Decision

1. The application is refused.

Reasons

1. The Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of an appeal, costs may 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. The applicant asserts that the Council acted unreasonably in the level of dialogue that has been received with regard to previous planning applications at the site and in the level and quality of dialogue that it has offered following the refusal of the planning application subject to this appeal. The Council has also used unreasonable language.
2. The evidence before me shows that the Council did engage with the applicant prior to refusal of the planning application subject to the appeal. In doing so, an assessment of the scheme and the potential application of PD rights were addressed. The submission of revised plans was also suggested. There is no clear evidence that the Council acted unreasonably up until this point, nor that the Council was unreasonable to refuse permission given the concerns raised.
3. The dialogue that took place after the refusal of permission cannot realistically be a direct cause for unnecessary expense in the appeal process, not least because the chosen appeal procedure did not provide the Council with a chance to address any of the post refusal dialogue during the appeal. The language used by the Council to which the applicant refers is not directly attributable to the appeal or costs during it as it occurred after and outwith the reasons given for the Council's decision to refuse permission, as set out by the officer report.
4. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. An award of costs is not justified.

Matthew Jones

INSPECTOR