
Costs Decision

Site visit made on 21 February 2022

by Susan Heywood BSc(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8th March 2022

Costs application in relation to Appeal Ref: APP/E2001/W/21/3284739 14 St John's Walk, Bridlington YO16 4HJ

- 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 & Mrs Giles for a full award of costs against East Riding of Yorkshire Council.
 - The appeal was against the refusal of planning permission for the erection of 3 No. 4 bed houses on land east of 14 St John's Walk, Bridlington.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that 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 appellants claim that the Council allowed them to go to the time and expense of addressing the concerns raised regarding the originally submitted scheme before suggesting a radically different scheme. They say that the Council had never intended to allow the scheme even following the amendment. The entire costs of the appeal are therefore sought.
4. The Council set out their concerns regarding the originally submitted scheme by email on 1st December 2020. In that email, the Council set out their concern that the rear of the proposed dwellings were in close proximity to the dwellings to the east of the site, resulting in overlooking. However, they went on to say that if the proposed dwellings were brought forward "it may be the case that the dwellings would overlook the host dwellings (sic) garden and therefore result in the same problem".
5. The appellants' agent responded to the Council on 7th December setting out his comments on the concerns raised by the Council and including some annotated plans. The Council responded to that email and plans on 15th December by suggesting an alternative reduced scheme.
6. The appellants decided not to amend the plans to the extent the Council suggested. However, they sought to overcome the issues of overlooking to the rear. As the Council had predicted, the amendments resulted in the problem of

overlooking of the host property to the front and the second reason for refusal therefore cites this concern.

7. It is clear that the Council set out their concerns regarding overlooking at an early stage and their subsequent emails make it clear that they were unhappy with the scheme and that it would be recommended for refusal. It was open to the appellants to have regard to these concerns. The scheme could have been redesigned to overcome the issues of overlooking both to the front and rear of the dwellings. The Council's suggested redesign was only one way in which this could have been done.
8. The Council only ever expressed concern regarding the scheme in the emails that are before me. The appellants nevertheless chose to amend the plans knowing that the revised scheme would not overcome the entirety of the Council's concerns set out in their 1st December email. It should not therefore have been a surprise to them that the application was recommended for refusal.
9. In my decision on the appeal, I have concluded that the Council were justified in refusing the proposal on the basis of overlooking of part of the garden to No. 14 and I set out the resulting conflict with the development plan. This reason and the other grounds for refusal were set out clearly in the Committee Report and in the Decision Notice.
10. The PPG states that where a local planning authority has refused a planning application for a proposal that is not in accordance with the development plan policy, and no material considerations including national policy indicate that planning permission should have been granted, there should generally be no grounds for an award of costs against the local planning authority for unreasonable refusal of an application. That is the case in this instance.
11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

S Heywood

INSPECTOR