



Costs Decision

Site visit made on 30 May 2023

by Lynne Evans BA MA MRTPI MRICS

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

Decision date: 26 June 2023

Costs application in relation to Appeal Ref: APP/K1128/D/23/3318479 41, Brook Road, Ivybridge PL21 0AX

- 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 Gordon Bryan for a partial award of costs against South Hams District Council.
 - The appeal was against the refusal of planning permission for single storey rear extension with associated external works, including new / replacement boundary fence.
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. The Planning Practice Guidance 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 Appellant is seeking a partial award of costs against the Council, specifically in respect of the second reason for refusal of the application, namely regarding the nature of the new/ replacement boundary fence, which formed part of the application proposal and was included in the application description of development.
4. The Applicant has referred to the Planning Practice Guidance and paragraph 55 of the National Planning Policy Framework also states that '*Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations*'. However, in this case, the imposition of a condition in respect of the fence was not open to the Council as it found the single storey extension to be unacceptable as set out in the first reason for refusal.
5. As the fence was specifically referenced in the description of development, but limited details had been submitted, I consider it was reasonable for the Council to raise this matter as a specific reason for refusal to make clear to the Applicant the basis of its concerns.
6. I have reached a different conclusion and found that there would not be material harm to the living conditions of adjoining neighbours and have therefore granted planning permission. As a result I have found it appropriate to impose a condition to ensure that further details of the fence are submitted and approved, and then erected in accordance with the approved details.

7. I have taken the other arguments into consideration as raised by both the Applicant and the Council in respect of the costs claim and response, but they do not persuade me to a different view.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

L J Evans

INSPECTOR