
Costs Decision

Site visit made on 22 January 2024 by Max Webb BA(Hons) MSc MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th April 2024

Costs application in relation to Appeal Ref: APP/K1128/D/23/3327556 Summerstrand, Eddystone Road, Thurlestone, Devon TQ7 3NU

- 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 Tindale for a full award of costs against South Hams District Council.
 - The appeal was against the refusal of planning permission for development described as "resubmission of application 2614/22/F alteration to existing garage to form ancillary accommodation".
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Decision

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

Procedure

2. A representative of the Inspector has set out the recommendation below, to which the Inspector has had regard before deciding the application.

Reasons

3. Parties in planning appeals normally meet their own expenses. However, 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.
4. The PPG sets out examples of types of behaviour which may give rise to an award of costs against a Council. These include not determining similar cases in a consistent manner. In this case, the applicants' case is that advice given by the Council prior to submitting the application now subject to appeal was inconsistent with the decision made, and that the Council did not accept revised drawings during the application stage.
5. The evidence before me is that a Council planning officer engaged with the applicants during the application stage for a previous scheme rather than as formal pre-application discussions. I do not have the plans before me that their advice relates to, however it is clear from the text provided by the applicants that the Council officer highlighted that an additional dormer proposed to add head height would mean that the application would need re-advertising, which is usual with material changes to a scheme. The officer also raised concerns with a front dormer and added a caveat that further discussions would be needed regarding the rear dormer.
6. When providing the informal advice, the officer clearly explained that further discussion would be required in relation to a revised scheme. They specifically

referred to the elements of the amended plans which later formed the Council's reasons for refusal in the revised scheme now subject of this appeal.

7. That officer did not, therefore, provide support for the scheme I have now considered, and it was not unreasonable for a different officer, when faced with the full application for a revised scheme and the results of public consultation, to recommend refusal. Although I have come to a different conclusion to the Council on the appeal, this was on matters of planning judgement. The Council substantiated its case and set out a clear reason for refusal in relation to the development plan and local guidance, and therefore did not behave unreasonably in making its decision.
8. The Council is not required to accept revised documents during an application process. Consequently, it was not unreasonable for the Council to consider the development against the originally submitted plans.

Conclusion

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and an award of costs is not warranted.

Max Webb

Appeal Planning Officer

Inspector's Decision

10. I have considered all the submitted evidence and my representative's report and agree with the reasoning. The Council officer's comments were neither positive nor detailed, as the applicants suggest. Indeed, on my reading they highlight a number of potential issues and do not give clear opinions on these. In my experience this is not unusual or unreasonable in the context of informal advice outside of a formal pre-application submission, and in a situation where further public consultation would be needed on any revised scheme.
11. Furthermore, the advice given was based on a set of plans that are not before me, therefore I cannot determine how similar they might have been to the appeal scheme. It has not therefore been demonstrated that the Council determined the two proposals inconsistently, or that the original case officer would not have made the same recommendation as the case officer for the later application.
12. Nor is it unreasonable to refuse to accept amended plans where the amendments would be material, particularly as the Council is required to determine applications within a statutory time frame.
13. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and on that basis the application for an award of costs is refused.

L McKay

INSPECTOR