



Costs Decision

by **D Cramond** BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2024

Costs application in relation to Appeal Ref: APP/X1165/D/24/3350973 83 North View Road, Brixham, TQ5 9TS

- 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 Barry and Julie Tricklebank for an award of costs against the decision of Torbay Council.
 - The appeal was made against the refusal of an application, Ref P/2023/0687, which sought planning permission for the formation of an extension to rear with other external alterations.
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Decision

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

Reasons

2. Planning Practice Guidance (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 or wasted expense in the appeal process. Unreasonable behaviour may be either procedural or substantive.
 3. The Applicants argue that there has indeed been unreasonable behaviour by the Council. It is pointed out that in the case of changes to number 79 North View Road (Council ref P/2023/0132) the planning officer indicated that "The proposed changes to all the windows are subject to approval through condition." The Applicants state that if this positive and proactive approach had been taken to their application (including the offer and use of conditions to achieve acceptable window and door details) then it would have been welcomed. By following this approach, the Applicants consider that an appeal would most likely not have been required; the Council has acted unreasonably and inconsistently in their view.
 4. The Council has not commented on the claim.
 5. The general principle embodied within the guidance is that the parties involved should normally meet their own expenses. I have carefully considered the matter of a full or, indeed, a partial, award of costs.
 6. I recognise that an appeal process can be time and fee consuming and that professional assistance comes at a cost. It is clearly regrettable when an Applicants feel that the processing of a planning application could have been dealt with better. I do entirely understand why the Applicants might expect the Council to follow its earlier lead on approving plans for no. 79. On the other hand, I do note that there are other examples where the Council has resisted
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the approach taken at No. 79. The circumstances and proposals are a little different between the current appeal and the cited case and, in any event, and without putting words in the Council's mouth, I can understand that decision makers can think along the lines that 'two wrongs don't make a right'. In this instance it is also clear that as well as window and door pattern it was the material and the finish to be used which gave the Council concerns.

7. I would assess that the Council has given clear reasons for the judgement it reached. I surmise that the Council dealt with the plans and information before them and reached a not wholly unsurprising or illogical decision on the scheme. This scheme was judged on its own merits. The refusal reasons are clear and set out unequivocally the concerns of the Council and cross-refer to applicable policies.
8. As it happens, I do not agree with the conclusion reached by the Council on the scheme. However, I would nevertheless defend its wording and assertions in the round as not being unsubstantiated and its actions throughout the planning assessment process as not being irrational or unacceptably inconsistent.
9. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the planning guidance, has not been demonstrated.

D Cramond

INSPECTOR