
Costs Decision

Site visit made on 12 October 2016

by Mike Fox BA (Hons) DipTP MRTPI

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

Decision date: 02 November 2016

Costs application in relation to Appeal Ref: APP/D0840/W/16/3155666 Tory Farm, Tory, Ponsanooth, Truro, Cornwall, TR3 7HN

- 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 David Worlledge for a partial award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for erection of stables and sand school.
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Decision

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

The submission for Mr David Worlledge

2. The submission does not refer to the Government's Planning Practice Guidance (PPG), but it highlights alleged unreasonable behaviour and unnecessary wasted expense in relation to the appeal¹.
3. The Appellant's main grounds for costs are that the local planning authority introduced a fresh issue in the Decision Notice in relation to highways impact, which necessitated the employment of a highway consultant to deal with this aspect of the appeal. Reference is made to Stithians Parish Council's comments on highways issues in its response to appeal application on 22 October 2015.
4. This amounted to unreasonable behaviour as the Council's highway officer had written at the pre-application stage that the access was considered suitable and that the proposal did not raise any concerns from a highway safety perspective. There has been little or no further communication between the local planning authority and the highways officer and the local planning authority has been unable to justify or substantiate the introduction of highways matters in the Refusal Notice.

The Response by Cornwall Council

5. The Council agrees with the Appellant that pre-application discussions are valuable and states that the local planning authority takes a positive attitude to engaging in such discussions. However, it must be remembered that the views expressed in any such discussions do not represent the formal views of the

¹ PPG:ID 16-049-20140306 What type of behaviour may give rise to a substantive award against a local planning authority?

Council. Although the Council, in its Refusal Notice refers to vehicle movements, this was in regard to the site's "*isolated and unsustainable location*". This is an issue of sustainability and an assessment of the proposal against paragraphs 17, 34 and 35 of *the Framework*, which seek to reduce the need to travel and locate development in sustainable locations.

6. At no point does the reason for refusal refer to any impact on highway safety, but clearly refers to sustainability issues, and it is rather unfortunate that a misinterpretation arose which prompted employing a highway consultant. The Council therefore concludes that it has demonstrated in the documents submitted that it has taken a logical and reasoned justification in defence of its position.

Reasons

7. Paragraph 30 of the PPG² advises that costs may be awarded against a party who has behaved unreasonably, thereby causing the party applying for the costs to incur unnecessary or wasted expenses in the appeal process.
8. Having read carefully the two submissions, I consider that the Council's highway concern clearly relates to sustainability and not highway safety, and that this lies at the heart of the misunderstanding by the Appellant of the Council's position. The Council's officer report, quite properly, refers to the representation from Stithians Parish Council, dated 22 October 2015. However, the report makes it clear (page 7) that the proposal does not raise any concerns from a highway safety perspective. Moreover, the highways comments in the Reason for Refusal refer to sustainability whilst no direct reference is made to highway safety.
9. I therefore agree with the Council, firstly, that pre-application discussions, whilst potentially helpful, cannot be viewed as the decision of the Council. Secondly, I also agree with the Council that the employment of a highway consultant by the Appellant was unfortunate, but that no blame can be attached to the Council for this decision.
10. I therefore find that unreasonable behaviour or wasted expense, as described in the PPG, has not been established. On this basis, I conclude that an award of costs is not justified.

Mike Fox

INSPECTOR

² PPG: ID 16-030-20140306 *In what circumstances may costs be awarded?*