
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: 11 November 2016

Costs application in relation to Appeal Ref: APP/D0840/W/16/3153465 17 Queen Street, Lostwithiel, Cornwall, PL22 0AD

- 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 Kildrum Management Ltd for a partial award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for conversion of redundant bank premises to four units of living accommodation.
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Decision

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

The submission for Kildrum Management Ltd

2. The submission does not refer to the Government's Planning Practice Guidance (PPG), but it states that the Council's appeal case contained errors of fact, including some in the appeal questionnaire. This involved additional work and time when preparing the Appellant's statement.
3. The additional work incurred by the Appellant included researching statements made by the local planning authority, additional internal discussion and correcting the appeal questionnaire. This incurred unnecessary expenditure.

The response by Cornwall Council

4. The Appellant does not refer to any paragraphs in the PPG, or state what errors the Council is alleged to have made. Therefore it can only surmise what the issues are.
5. The Council assumes from reading the Appellant's costs claim that it is limited to statements made by the Council within the questionnaire. Three alleged errors seem to be central to this claim, and the Council's response is:
 - (i) Questionnaire 2a – It is accepted that part of the site cannot be seen from public vantage points; however, this needs to be read with the response to question 2b in which the Council considers it is essential for the Inspector to enter the site.
 - (ii) Questionnaire 2c – The Appellant considers that there would be a health and safety issue should the Inspector wish to go onto the flat roof. The flat roof, however, has guard rails as shown in the photograph at paragraph 5.21 of the Council's statement, and is not therefore seen as a safety issue warranting mention in the questionnaire.

- (iii) Questionnaire 11b – The site notice is correct as the appeal site lies opposite a series of listed buildings (shown in a plan in the Council's response) where the proposed development may affect their setting.
6. The Council has not prevented, inhibited or delayed development which could have reasonably have been permitted. The evidence clearly demonstrates that the correct decision was to refuse the application where the imposition of planning conditions would not overcome the harm identified. The Council has therefore determined the application in a reasonable manner as detailed in paragraph 050 of section ID16 of the PPG, having taken into account all relevant material considerations and concluding that the proposal is not in accordance with the development plan.
7. The Council also demonstrated that a logical and reasoned justification was made in defence of its decision to refuse the appeal application, which fulfils the requirements of section ID 16 of the PPG and the relevant guidance in the Planning Inspectorate Procedural Guide (5 August 2016). Furthermore, the local planning authority has not caused the Appellant to incur additional costs or wasted expense, and therefore the application for the award of costs should fail.

Reasons

8. Paragraph 30 of the PPG¹ 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 expense in the appeal process.
9. The lack of specific references in the Appellant's claim for costs to the relevant sections of the PPG, coupled with the lack of detail relating to the alleged errors on the part of the Council is unfortunate, and the Council has commendably tried to ascertain the relevant parts of the questionnaire which are at issue between the parties. In the absence of any detail to the contrary, I have considered the Appellant's costs claim in relation to the three statements in the questionnaire which the Council has drawn to my attention.
10. Regarding Questionnaire 2a, whilst I accept that the rear of the appeal property cannot be seen from the public domain, the Council correctly stated, in answer to question 2b that it is essential for the Inspector to enter the site to assess the impact of the proposal. I consider this explanation to be acceptable, and that no additional research time was therefore necessary. On this basis, I find no ground for unreasonable behaviour on the part of the Council here.
11. Regarding Questionnaire 2c and 11b, I see no error of fact and no reason why any unnecessary or wasted expenses would have been caused for the Appellant. Again, I find no grounds for costs.
12. 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

¹ PPG: ID 16-030-20140306 *In what circumstances may costs be awarded?*