

Costs Decisions

Site visit made on 11 October 2016

by David Walker MA MRTPI

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

Decision date: 18 November 2016

Costs application A

in relation to Appeal Ref: APP/D0840/W/16/3151929

The Office at Meadowside, Whitstone EX22 6TB

- 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 Chapman for a full award of costs against Cornwall Council.
 - The appeal was against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
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Costs application B

in relation to Appeal Ref: APP/D0840/W/16/3151929

The Office at Meadowside, Whitstone EX22 6TB

- 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 Cornwall Council for a full award of costs against Mr David Chapman.
 - The appeal was against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
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Decisions

1. Both applications for an award of costs are refused.

Reasons

2. 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 expense in the appeal process.

Costs application A

3. The claim is brought on the basis that the Council behaved unreasonably with regard to the substance of the planning application. It is submitted that the Council failed to take into account information relating to the office use of the appeal building.
 4. However, the Officer Report – Delegated provided with the appeal questionnaire adequately demonstrates that the key sources of information submitted at the time of the application were taken into account. It will be
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apparent from my decision that I agree with the Council that, on the available evidence, the office use described did not amount to a use under Class B1 (a).

5. I therefore find that the Council discharged its duty to properly exercise its development management responsibilities. In these circumstances the appeal would have been required in any event in order to test the points in contention. On this basis unreasonable behaviour leading to unnecessary expense in the appeal process for the appellant has not been demonstrated.

Costs application B

6. The Planning Practice Guidance (PPG) explains that the right of appeal should be exercised in a reasonable manner. With regard to paragraph ID: 16-053 of the PPG the Council submits that the appeal had no reasonable prospect of succeeding due to the inadequacy of the supporting evidence.
7. However, while the legal precedent¹ is clearly established I have nothing before me to show that this was explained or brought to the appellant's attention at the time of the application. Although the PPG encourages applicants to give consideration to the merits of the case I am mindful that the appellant was not legally represented. As the use of the appeal building was under contention I do not therefore find that the appeal was brought unreasonably.
8. In the circumstances, it cannot be argued that unreasonable behaviour resulting in unnecessary expense for the Council in the appeal process has been demonstrated.

Conclusion

9. For the reasons given above, I conclude that unreasonable behaviour resulting in unnecessary expense in the appeal process has not been demonstrated. Neither a full nor a partial award of costs is therefore justified in both applications.

David Walker

INSPECTOR

¹ *Burdle v SSE* [1972] 1 WLR 1207 (Div Court)