
Costs Decision

Site visit made on 15 November 2016

by Colin Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 05 December 2016

**Costs application in relation to Appeal Ref: APP/D0840/W/16/3155082
The Retreat, Road from junction south of Polglaze Farm to Pol-Tec Lane,
Lanteglos Highway, PL23 1ND.**

- 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 Ms Pat Trussell for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for change of use of building from single dwelling to two dwellings.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. The appellant argues that the Officer Report contained factual inaccuracies. However, the minutes¹ of the committee meeting indicate that the substantive facts were clarified in advance of the vote being taken. As such, I do not consider that the final decision to refuse the application was influenced by any factual inaccuracies within the Officer Report.
4. It is also argued that the Council failed to recognise that the workshop use was redundant. However, I note that this was one of the matters clarified in advance of the committee meeting. The current status of the workshop was therefore taken into account when the decision was made. Furthermore, whilst the committee heard that the workshop was not in use, it nonetheless benefits from an extant planning permission and could be brought back into use at any time in the future. The planning officer therefore took a reasonable stance in highlighting a potential conflict with future residential uses.
5. Although it is argued that the proposed development would not amount to a conversion, the creation of an additional residential unit within the building represents a material change in circumstances and would have required planning permission even if the Council had supported the proposal.

¹ Minutes of East Sub-Area Planning Committee 1st February 2016.

6. The Council refer to the policies of the Caradon Local Plan First Alteration within their reasons for refusal. This was the statutory development plan in force at the time that the application was originally determined. The law requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The Cornwall Local Plan was not part of the statutory development plan when the Officer Report or the Council's Appeal Statement was prepared. As such, the Cornwall Local Plan would have only assumed the status of a 'material consideration' at the time the application. This remains the case even if there are no unresolved objections to an individual policy within the plan.
7. The weight attributed to material considerations is a matter of judgement and the Officer Report therefore took a reasonable stance in assigning Policy 7 of 'little weight' on the basis of prematurity, even if the appellant does not agree with this assessment. Furthermore, the Council's Appeal Statement provided an update on the status of the Cornwall Local Plan and specifically addressed Policy 7, explaining why the application was considered to conflict with it. Consequently, I consider that the Council took the policies of the emerging plan into full account, both when assessing the original application and during the subsequent appeal process.
8. It is suggested that the Council should have considered the location to be sustainable on the basis of other planning applications approved in the vicinity. However, these are again material considerations and largely matters of planning judgement. The Council provided reasonable evidence to support their position in both the Officer Report and their Appeal Statement, even if the appellant had evidence to support a contrary view.
9. The appellant argues that the Council had previously determined that the property benefited from adequate amenity space by virtue of their decision to grant planning permission for the workshop with ancillary accommodation. However, the previous approval is noted within the Officer Report and clear reasons are given to explain why the officer considered the level of outdoor space to be inadequate in the current proposal. This includes the fact that the application relates to an entirely different proposal for two independent dwellings, one of which would have no private outdoor space whatsoever. It is also made clear why, in the officer's opinion, the indoor workshop space would not provide a suitable alternative. Consequently, the matter was dealt with reasonably.
10. Overall, the Council has substantiated their reasons for refusal. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Colin Cresswell

INSPECTOR