
Costs Decision

Site visit made on 14 November 2016

by Thomas Bristow BA MSc MRTPI

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

Decision date: 20 December 2016

Costs application in relation to Appeal Ref: APP/D0840/W/16/3157449 Land at Church Road, Illogan, Redruth, Cornwall

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by the Truro Diocesan Board of Finance for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for residential development of the land, to include affordable housing.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, the Planning Practice Guidance (the 'Guidance') sets out that 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.¹
3. The appellant's claim for a full award of costs is essentially substantive, in that it relates to the Council's reasoning regarding the merits of the development proposed. Specifically, and with reference to the approach in the Guidance,² the appellant contends that the Council failed to substantiate their case against the proposal with appropriate evidence, instead relying upon vague and generalised assertions.
4. Whether a proposal is acceptable in respect of character and appearance, the main issue in the appeal, is inherently reliant on planning judgement rather than a matter that can be settled with reference to exact metrics. However this does not mean that such judgements can be taken in the abstract, but rather careful consideration must be given to relevant evidence.
5. The surrounding context of the appeal site, including the presence of nearby buildings, is described in the Council's officer reports supporting the original application when variously considered at committee. There is also evidence before me indicating that consideration was given to the visual experience of the site in conjunction with its surroundings by Members,³ and indeed of their

¹ Reference ID: 16-030-20140306.

² In particular Reference ID: 16-049-20140306.

³ A document entitled 'Report of the site inspection panel, held on 14 June 2016 at 10:00am'.

considering the benefits of the proposal relative to the harm that they considered would arise.⁴

6. Paragraphs 5.3 and 5.8 of the Council's appeal statement in particular consider the relationship of the appeal site to the surrounding countryside, to the historic evolution of the village, and to the surrounding built environment. These paragraphs set out the Council's position in respect of the effects of the proposal in terms of character and appearance as experienced from various surrounding vantage points. Consideration is also therein given to the appellant's Landscape and Visual Impact Assessment.⁵
7. I appreciate that the evidence offered by the Council in support of their position is not as extensive or as methodical as that prepared by the appellant. However there is clearly evidence before me that they have given detailed consideration to the effect of the proposal with reference to its surrounding context, to the evidence provided by the appellant, and indeed in relation to the benefits of the proposal relative to the harm that they considered would arise. It therefore appears to me that the Council reached a balanced decision on the merits of the development based on reasonable evidence, and have suitably explained their approach here.
8. The appellant also avers that the Council's refusal was unreasonable given that pre application advice from the Council indicated that they were supportive of the proposal and as officers recommended the proposal for approval. Whilst I note this point, the Guidance is clear that 'pre-application advice provided by the local planning authority cannot pre-empt the democratic decision making process or a particular outcome'.⁶ Members are also entitled to take a different view on the merits of their proposal from the recommendations made by officers, but must do so based on valid material planning grounds. In any event these concerns are secondary to the appellant's central argument as considered above, and in this context the Council's approach to the proposal cannot consequently be said to be unreasonable.
9. A further point raised by the appellant is that neither the appeal site nor the surrounding area benefit from 'any designation' related to the importance of the appeal site in terms of character. As addressed in the appeal decision, and whilst I ultimately arrived at a different conclusion regarding the appropriateness of the proposal from that of the Council, the absence of such designations does not in itself mean that an area is not valuable for its contribution in relation to character and appearance.
10. A further point made by the appellant is that the Council referred exclusively to elements of the Framework in refusing permission. Although the Council did not cite that the proposal would conflict with policies from the then emerging Cornwall Local Plan: Strategic Priorities (the 'Local Plan'), this appears a logical approach given that at the time of the Council's decision there was no extant development plan for the area. The Local Plan has now been adopted, and in order to be found sound a plan must be consistent with national policy.⁷

⁴ A document entitled 'West Sub-Area Planning Committee, Minutes of the meeting held on 31 May 2016'.

⁵ Prepared by Richard Sneesby Landscape Architects, dated 26 August 2016, which is stated to have been prepared in line with the Landscape Institute's Guidelines for Landscape and Visual Impact Assessment (2013).

⁶ Reference ID: 20-011-20140306.

⁷ As set out in paragraph 182 of the Framework.

Consequently the reasons given by the Council in refusing permission cannot be said to be inadequate in this context.

11. For the above reasons and taking account of all other matters raised I am not of the view that unreasonable behaviour resulting in unnecessary expense has been demonstrated. I therefore conclude with reference to the approach in the Guidance that an award of costs is not justified in this instance.

Thomas Bristow

INSPECTOR