

Costs Decision

Site visit made on 28 February 2017

by Colin Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 16 March 2017

Costs application in relation to Appeal Ref: APP/D0840/W/16/3153004 Hengar Manor Country Park, Access To Hengar Manor, St Tudy, Bodmin, Cornwall, PL30 3PL

- 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 Hengar Manor Ltd for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for new siting for 47 static caravans.
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Decision

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

Reasons

2. The National Planning Practice Guidance 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. It is argued that the Council failed to produce evidence to substantiate their reason for refusal. The appellant draws particular attention to the comments of the Council's own Historic Environment Planning Team who were consulted on the application and concluded that the proposal would have an overall neutral impact on the setting of the heritage asset.
 4. Although the Officer Report acknowledges this consultation response, it is also pointed out that the views of the Historic Environment Planning Team were based on a limited desktop assessment. The officer is clear in stating that their own assessment was based on a site visit and that is why a contrary view was taken. To substantiate this, a comprehensive description of the setting is provided, together with an explanation of why the proposal was considered to be harmful. As such, the Council give a reasonable justification for taking a contrary opinion to the advice of its own heritage expertise.
 5. Even though case law establishes that 'substantial harm' is a high test requiring much of the significance of the asset to be lost, assessing the degree of harm is nonetheless a subjective exercise. Page 14 of the Officer Report provides an explanation of why the harm was considered to be substantial in this case. Whilst my Appeal Decision makes it clear that I disagree with this assessment, the Council have nonetheless provided a justification for their stance. Hence, the reason for refusal can be substantiated.
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6. It is suggested that the Council failed to carry out an adequate balancing exercise, including an assessment of the scheme against Policy 5 of the Cornwall Local Plan which promotes tourist accommodation. However, the conclusion of the Officer Report does refer to the beneficial economic impacts of holiday accommodation and refers to the National Planning Policy Framework and development plan in this regard. It is stated that that these benefits would not outweigh the harm identified. Reference is also made to relevant case law within the body of the Officer Report which is elaborated upon further within the Council's Appeal Statement. It is therefore evident that a balancing exercise has been carried out and justification has been provided for the degree of weight given to the protection of the heritage asset.
7. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Colin Cresswell

INSPECTOR