
Costs Decision

Site visit made on 21 March 2017

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 05 April 2017

Costs application in relation to Appeal Ref: APP/D0840/W/16/3158468 Tregenna, Upper Castle Road, St Mawes, Cornwall TR2 5BZ

- 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 & Mrs Nick & Miranda Pink for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for demolition of existing bungalow and garage and construction of new dwelling.
-

Decision

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

Reasons

2. Planning Policy Guidance (PPG) advises that, 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.
 3. It goes on to state that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing planning applications and preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
 4. The Council's appeal statement fully details relevant aspects of the site's context including reference to a Landscape Character Study, assesses the design of the proposal, the proposed materials and its visual impact from some viewpoints. It concludes that the development would fail to accord with its context. As such I do not agree the Council have failed to substantiate their decision, and therefore they have not acted unreasonably in this regard.
 5. Similarly although the Council's statement does not refer specifically to the cases identified in the appellant's evidence, their failure to do so is not unreasonable, particularly as I consider the design of the house is unique and not directly comparable to these other examples.
 6. Furthermore, as I have concluded that the proposal does not constitute sustainable development and that the appeal should be dismissed, the Council did not delay or prevent development that should be permitted.
-

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and consequently the application for an award of costs is refused.

Andrew Owen

INSPECTOR