
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: 10 April 2017

Costs application in relation to Appeal Ref: APP/D0840/W/16/3164863

Land adjacent to The Smallholding, Trevellas, St Agnes, Nr Truro, Cornwall TR5 0XU

- 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 A Higgins for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for demolition of barn and erection of dwelling, installation of septic tank, access improvements and associated works.
-

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 appellant has identified that the Council granted planning permission on 21 February 2017 for a development at Delphi Heights¹ which they consider is comparable to the appeal proposal. However the Council have identified a number of differences between the two schemes to demonstrate that differing conclusions can be reached, and as such they have not acted unreasonably. Moreover, it is illogical to suggest that by refusing the application subject of the appeal, the Council were not being consistent with a later application.
5. Furthermore, the appeal had already been submitted and had progressed to an advanced stage by 21 February 2017. As such the appellant cannot have incurred any unnecessary expense as no work was undertaken after this date beyond that which would normally be expected as part of their appeal.

¹ PA16/11489

-
6. Also, as I have concluded that the appeal should be dismissed, the Council did not delay or prevent development that should have been 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