
Costs Decision

Site visit made on 20 March 2017

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 13 April 2017

Costs application in relation to Appeal Ref: APP/D0840/W/16/3155280 Phase 2, Land off St Martins Road, Looe, Cornwall

- 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 Barratt David Wilson Homes for a full award of costs against Cornwall Council.
 - The appeal was against the refusal to grant consent, agreement or approval to details required by a condition of an outline planning permission, for the construction of 85 dwellings (market and affordable homes), including estate road and drainage infrastructure, parking and landscaping.
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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 main issue in the appeal is whether surface water from the development would drain satisfactorily. The responses from the Council's consultees in this regard, namely the Environment Agency, the Estate Adoption officer and Flood Drainage Team, all raised no objection to the proposal subject to the imposition of conditions.
 5. Furthermore, although I acknowledge the weight of public opposition and objections from the parish council, these were not supported by evidence to suggest the assessments carried out by the applicant were incorrect.
 6. However at the time of the Council's decision the inquest into the death of a local woman from a landslide downhill from the appeal site had not been concluded and the cause of the landslide had not been determined. This is a very exceptional circumstance and, as the outcome of the inquest could have
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had implications for the development, I do not consider it was unreasonable for the Council to adopt a cautionary approach and refuse the application contrary to the advice of their officers.

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