
Costs Decision

Site visit made on 4 April 2017

by CD Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 25 April 2017

Costs application in relation to Appeal Ref: APP/D0840/W/16/3159218 Warath, 20 Bolenna Lane, Perranporth TR6 0LB

- 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 Birchmore for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for a development described as “the replacement of existing sub-standard dwelling with two new dwellings”.
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Decision

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

Reasons

2. The National Planning Practice Guidance (PPG) 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. In this case, the appellant’s main point is that Council did not provide evidence of any adverse effects.
 3. With regard to the effect of the proposal on the protected trees, it is argued that the Council’s suggested conditions overcame the reasons for refusal. However, I note that the purpose of the condition suggested in paragraph 6.5 of the Council’s Statement is to help guard the root protection areas of the trees during construction. This would not necessarily overcome the Council’s reasons for refusal which refers to adverse impacts to the trees and which the Officer Report makes clear includes pruning and pressure to fell them following occupation of the proposed dwelling. Although it is argued that neighbouring properties are also built close to the trees without adverse impacts, the Council provide specific reasons why they consider the appeal proposal would lead to conflict with the trees in this particular case. This includes the discussion on page 11 of the Officer Report.
 4. It is also argued that the Council has failed to consider the balance of the new design against the retention of the existing poor quality dwelling. However, page 8 of the Officer Report discusses the visual impacts of the proposal in some detail, identifying adverse impacts in the process. Furthermore, page 12 of the report explicitly refers to improvements over the substandard construction of the existing building. Other benefits of the proposal are also considered. It is clear that a balancing exercise has been undertaken.
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5. The appellant states that the Council failed to consider Policy 3 of the Cornwall Local Plan which, it is argued, lends support to the proposal. However, the contribution to housing supply and the accessible location of the site are among the matters taken into account on page 12 of the Officer Report. It is made clear enough why the proposal was not considered to accord with other policies of the development plan, including those relating to living conditions and character and appearance.
6. In terms of the potential noise effects of the proposed parking space, the Council refer to the topography of the site and the proximity of the parking space to the boundary of the neighbouring dwelling. Whilst I did not consider this relationship to be harmful in terms of noise, these are nonetheless matters of planning judgement and the Council have substantiated its stance on this matter within its evidence. Although it is suggested that improvements to privacy and overlooking have not been properly considered, this matter is discussed on pages 10 and 11 of the Officer Report which acknowledges that the existing building partially overlooks Trevone.
7. I therefore conclude that the reasons for refusal have been substantiated. Unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

CD Cresswell

INSPECTOR