

Costs Decision

Site visit made on 15 May 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: 30 June 2017

Costs application in relation to Appeal Ref: APP/D0840/W/17/3167231 Coriander Cottages, Penventinue Lane, Fowey, Cornwall PL23 1JT

- 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 Colin King for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the construction of a building accommodating an additional holiday unit, together with office and associated facilities to serve the existing holiday units.
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Decision

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

Reasons

2. Irrespective of the outcome of the appeal, the Planning Practice Guidance establishes that costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.¹
3. The appellant's case for a full award of costs is that the Council failed to determine the proposal against relevant development plan policies, acted in an inconsistent manner with their decision in application Ref PA16/01486, and did not substantiate their objection to the development proposed in relation to the effects thereof on the Cornwall Area of Outstanding Natural Beauty (the 'AONB').
4. The appeal decision to which this costs application relates concerned the Council's refusal of outline permission for a unit of holiday accommodation. The appellant contends that the Council inappropriately considered the proposal against policies of the Cornwall Local Plan Strategic Policies 2010 to 2030 (adopted 22 November 2016, the 'Local Plan') related to housing as opposed to tourism.
5. However in the appeal decision, I explain how the occupation of a building by different individuals for varying lengths of time as opposed to on a permanent basis is not determinative of whether it is a form of housing. I determined on the basis of the evidence before me that as the holiday unit proposed could support independent day-to-day occupation it represented a form of housing (albeit that occupation could be restricted via condition). The Council were

¹ Reference ID: 16-030-20140306.

therefore correct in determining the proposal with reference to housing policies of the Local Plan.

6. Moreover the Council's officer report and decision notice refers to paragraph 28 of the National Planning Policy Framework (the 'Framework'), which relates, amongst other matters, to rural tourism. The Council's appeal statement further refers to the proposal with reference to tourism policy (in paragraphs 5.28 and 5.29 in particular).
7. I have addressed within the associated appeal decision the various cases, including application Ref PA16/01486, brought to my attention in respect of which the appellant avers that the Council has taken an inconsistent approach with reference to the appellant's proposal. Specifically in relation to application Ref PA16/01486, that decision was taken before the adoption of the Local Plan, was not within the AONB, and related to the provision of 'timber cabins'. Given the differences between that proposal and the proposal at appeal, and as all cases must be determined on their particular merits, the Council cannot be said to have acted inconsistently without appropriate justification in this respect.
8. The appellant describes the Council's reasoning in relation to the effect of the development proposed on the AONB as 'muddled'. I accept that the Council's position here may have benefitted from greater explanation. However the situation in this regard is complex given the bearing of a previous appeal related to the appeal site (the 'previous appeal').²
9. Nevertheless the Council have given detailed consideration in their appeal statement to the nature of the development proposed, the character of the surroundings of the appeal site, and the adverse effects that they are of the view that would arise to the AONB. Moreover the appellant acknowledges that the inspector who determined the previous appeal did not find that no harm would result to the AONB, but that this harm was not in his view unacceptable.³
10. The effect of the proposal on the AONB is a matter of planning judgement, and the Council have accordingly in my view given appropriate consideration to the effects of the proposal in this regard including with reference to the previous appeal. Based on the information before me I also concluded in the appeal decision that the proposal would be detrimental to the AONB.
11. For the above reasons, and having taken account of all other matters raised, I therefore conclude that unreasonable behaviour resulting in unnecessary expense has not been demonstrated. Accordingly, and with reference to the approach in the Guidance, an award of costs is not justified in this instance.

Thomas Bristow

INSPECTOR

² Ref APP/D0840/W/15/3031297.

³ As referred to in paragraph 1.18 of the appellant's costs application.