



Costs Decision

Site visit made on 19 June 2017

by Thomas Bristow BA MSc MRTPI

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

Decision date: 14 July 2017

Costs application in relation to Appeal Ref: APP/D0840/W/17/3167079 Land adjacent to 21 Carnyorth Hill, Carnyorth, Penzance, TR19 7QD

- 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 Richard Holdcroft for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for development described in the application form as 'to erect two new semi detached dwellings on plot 'D' adjacent 21 Carnyorth Hill'.
-

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 refused 'post planning application' engagement with the appellant, and to enter into 'any discussion or correspondence'. I would note that other procedural concerns raised by the appellant, so far as relevant to the planning matters at hand, were addressed in the associated appeal decision.
4. The National Planning Policy Framework (the 'Framework') explains that local planning authorities should look for solution rather than problems. The Guidance further sets out the benefits that may result from constructive engagement between developers and local planning authorities.²
5. The Guidance specifies that one type of behaviour which may give rise to a substantive award of costs against a local planning authority is 'refusal to enter into pre-application discussions, or to provide reasonably requested information, where a more helpful approach would probably have resulted in... the appeal being avoided'.³

¹ Reference ID: 16-030-20140306.

² Including at Reference ID: 20-001-20150306.

³ Reference ID: 16-049-201040306.

6. However neither the Framework nor Guidance indicates that all proposals are capable of being rendered acceptable through engagement. There is moreover extensive correspondence before me between the Council and appellant dating from before and after 15 July 2016 (the date of the Council's decision in respect of application Ref PA16/00908).
7. Having reviewed this correspondence, on various occasions the Council clearly explained their position in respect of the effects that they contended would result from the development proposed. The Council's officer report and appeal statement assess the proposal against relevant elements of the development plan and take account of other material considerations.
8. Pre-application advice was also given by the Council in relation to the appeal site, Ref PA15/02665/PREAPP (notwithstanding that this related to an indicative proposal for four homes). I would further note that I reached the same overall conclusion regarding the planning merits of the development proposed as that of the Council. This and the Council's substantive reasoning regarding the proposal is relevant in so far as it indicates that even had further engagement with the Council occurred, this would not necessarily have avoided the appeal.
9. 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