
Costs Decision

Site visit made on 10 July 2017

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 18th July 2017

Costs application in relation to Appeal Ref: APP/D0840/W/16/3169295 High Barberee, South Drive, Tehidy, Cornwall TR14 0EZ

- 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 Mrs M Moor for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for a development of three residential dwellings.
-

Decision

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

Reasons

2. The Government's Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs can be awarded against a party who has behaved unreasonably and thereby caused the costs applicant to incur unnecessary expense in the appeal process.
 3. The applicant's case is substantive in nature. For substantive matters, the PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the appeal, for example, by unreasonably refusing planning applications, or by unreasonably defending appeals. Importantly, any unnecessary costs identified must relate to the appeal process.
 4. The Planning Officer's report to the Council's Planning Committee recommended that the planning application be approved. However, as the applicant concedes, a local planning authority (LPA) is not bound to accept the recommendations of its officers. Where the professional or technical advice within a Planning Officer's report is not followed, the LPA will need to show reasonable planning grounds for taking a decision contrary to its officer's recommendation. The LPA is expected to produce evidence to substantiate each reason for refusal to support its decision in all respects.
 5. The reason for refusal related to issues of character and appearance which inevitably involves a reasonable degree of subjective reasoning. This reasoning was supported by policy guidance that explained what should be taken into account when considering issues relating to infill development and *rounding off* development. Whilst the appellant may not agree with the Council and I have not found in favour of the Council, this issue is a matter of
-

judgment. There is no call to say that the Council was unreasonable in its judgment, merely that it gave the issues different weight.

6. The Council's Minutes and the rebuttal to this application by the Planning Officer explains the rationale adopted by the Local Member and the Planning Committee, which to me suggests that there was some considerable analysis of those concerns that were echoed by the Planning Committee. In my decision on the appeal, I also noted the relatively large gap between the existing properties either side of the appeal site, which appeared to have played an important part in Committee's deliberations. The sensitivities of the site in terms of protected trees and the edge of settlement location, close to the Country Park were well articulated by Committee and were factors of some importance. Despite the attention given to landscaping, the applicant acknowledged that the development would gain a degree of prominence in the long distance views to the north-east, albeit in the context of scattered farmsteads and a factor that I agreed with. This was a matter that would have been recognised by the Committee who would have well understood the site context and its sensitivities. There was clearly a balance to be struck as to whether the site could be classified as an infill plot in the meaning of the Council's policy. I am satisfied that the Committee went on to amply explain its objection to the proposal and the harm that it felt would be caused to the character and appearance of the area.
7. In conclusion, although I can understand the applicant's frustration having produced a scheme with the apparent backing of Council officers, I find that on the substantive grounds, the Council did not act unreasonably. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance has not been demonstrated.

Gareth W Thomas

INSPECTOR