
Costs Decision

Site visit made on 24 July 2017

by P N Jarratt BA DipTP MRTPI

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

Decision date: 27 July 2017

Costs application in relation to Appeal Ref: APP/D0840/C/17/3171319 Land to the west of Portholland Chapel, West Portholland, Portloe, Truro, Cornwall, TR2 5PU

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Cornwall Council for a full award of costs against Mr Allen Jones.
 - The appeal was against an enforcement notice alleging the creation of an access track and the erection of a wooden shed and platform.
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Decision

1. I allow the application.

The submissions for Cornwall Council

2. The appellant has acted unreasonably in terms of paragraph 030 and 031 of the Guidance. Reference is made in particular to paragraphs 001, 051 and 053.

The response by Mr Allen Jones

3. The appellant considers the claim for costs to be premature and evidence of bullying by a Council Officer. He is critical of the Council's relationship with the Caerhays Estate. The Council has not taken action against numerous far more significant developments. The shed is only for tools in contrast to numerous sheds on the Caerhays Estate.

Reasons

4. Planning Practice Guidance advises that costs may 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.
5. Paragraph 001 makes it clear that parties who pursue an appeal unreasonably without sound grounds for appeal may have an award of costs made against them.
6. The Guidance points out that all parties are expected to behave reasonably throughout the planning process.
7. The erection of a building and engineering works to construct a track comprise development within the meaning of section 55 of the Act. Planning permission is required for such development but the appellant has maintained a position that planning permission is not required yet despite this has failed to appeal on

the relevant ground (c) or to submit any evidence to support such a stance. Similarly no appeal was made on ground (a) putting forward a case for planning permission to be granted.

8. Whilst the appellant is not professionally represented I would expect any person in receipt of an enforcement notice, particularly following a Planning Contravention Notice, to take adequate steps to ensure that any appeal is made on the relevant grounds. This has not been done. Paragraph 53 of the Guidance states that in enforcement appeals, the onus of proof on matters of fact is on the appellant. The appellant's starting point that planning permission is not required is wrong and the appeal has been made on a fundamentally incorrect basis.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, has been demonstrated and that a full award of costs is justified.
10. The application for an award of costs is allowed in the terms set out below.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Allen Jones shall pay to Cornwall Council the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to Mr Allen Jones, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

P N Jarratt

Inspector