
Costs Decision

Site visit made on 25 July 2017

by C Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 14 August 2017

Costs application in relation to Appeal Ref: APP/D0840/W/17/3172215 Rumours Apartments, 89 Henver Road, Newquay TR7 3DJ

- 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 Cornwall Council for a full award of costs against Dr Elizabeth Garner.
 - The appeal was against the refusal of the Council to grant planning permission for the development of 3 number 3 bed houses on land to rear of 87 and 89 Henver Road.
-

Decision

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

Reasons

2. The NPPG¹ 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.
3. In this case, the Council argue that the appeal was pursued without sound grounds and make particular reference to paragraph 053 of the NPPG which gives examples of the type of behaviour that might give rise to a substantive award of costs against the appellant. This includes instances where the development is clearly not in accordance with the development plan and no other material considerations (such as national planning policy) have been advanced or insufficient supporting evidence has been put forward.
4. The officer report states that the Framework² and the Local Plan³ seek sustainable development. As the site is well connected to Newquay, it is indicated that the basic principle of developing the site for residential purposes would be acceptable in accordance with this policy. However, the report goes on to argue that the proposal would result in a cramped design that would harm the character and appearance of the area as well as failing to maintain a good standard of amenity for residents.
5. Even though these arguments are backed up by reference to planning policies, they are largely matters of planning judgement. With regard to floor space, the officer report acknowledges that national standards are only a guide and do not form adopted policy. Similarly, while the separation distances between

¹ National Planning Policy Guidance.

² National Planning Policy Framework.

³ Cornwall Local Plan.

the proposed dwellings and No 89 Henver Road are less than 25 metres, the Design Guide⁴ suggests that this may be acceptable if the design demonstrates how privacy can be maintained. Policy 12 of the Local Plan sets out a general approach to design rather than establishing hard and fast rules. Issues relating to character and appearance are largely subjective. As such, it is not a situation where the development is 'clearly not in accordance with the development plan' as described in paragraph 053 of the PPG. Despite the strength of the Council's case, there exists leeway for the appellant to argue conformity with policy on these matters.

6. The appellant's statement claims that the 'design is high quality and not low quality as the case officer indicates' and that the 'relationship between existing buildings and the new proposal is acceptable'. These are relatively generalised statements and I agree with the Council that they are not backed up by a great deal of detailed evidence. However, some relevant evidence was nevertheless put forward to help substantiate the appellant's arguments.
7. For example, in order to demonstrate that the proposal respects the existing built form, the appellant points out that the site is already surrounded by dwellings. The fact that only one neighbour objected to the proposal is also put forward as an argument in favour of the scheme. Reference is made to the core principle of the Framework to make effective use of land and it is argued that the proposal would help to achieve this. At final comments stage relatively detailed reference is also made to the Council's housing figures and it is argued that the proposal would provide three open market dwellings which would contribute to supply. The potential economic benefits are also briefly referred to. It is clear enough from the material presented that the overall point being made is that the proposal would represent sustainable development when it is assessed as a whole. This directly relates to the presumption in favour of sustainable development within the Local Plan and Framework which both parties refer to.
8. The appellant states that the interested party who objected to the scheme is a member of the Town Council. It is also stated that more than one case officer dealt with the application and that the saved policies of the Restormel Borough Council were not taken into account, even though they were extant when the application was lodged. I consider these to be largely procedural matters with limited bearing on the merits of this particular case. However, the appellant is entitled to draw these matters to my attention and there is little before me to suggest that the Council has incurred unnecessary expense in dealing with this aspect of the appeal.
9. Overall, whilst I did not find the appellant's evidence to be compelling, a reasonable attempt has nonetheless been made to substantiate the appeal in the context of the development plan and national planning policy. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

C Cresswell

INSPECTOR

⁴ Cornwall Design Guide 2013