



Costs Decision

Site visit made on 16 July 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 August 2019

**Costs application in relation to Appeal Ref: APP/D0840/W/19/3226982
The Old Station Business Park, Station Road Industrial Estate, Perranporth
TR6 0LH**

- 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 Frame Home (South West) Ltd for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for 11 flats.
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Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby directly caused the party applying for costs to incur unnecessary expense in the appeal process. The applicant submits that the Council has acted unreasonably by delaying development that should have been permitted thereby making the scheme liable to the Community Infrastructure Levy (CIL), and by introducing new evidence and grounds of refusal at appeal. Further, it is stated that the Council's case in relation to noise is vague and unsubstantiated, and that the planning committee was misled.
3. I have found that the scheme conflicts with the development plan and there are no considerations that outweigh this conflict. As such, the Council did not delay development that should have been permitted, nor did it cause the scheme to become CIL liable. Whilst the planning committee's decision to refuse the application was in notable contrast to the case officer's recommendation, planning committees are entitled to reach a different view to their professional officers and often do.
4. The reason for refusal refers directly to the adverse economic impact through the introduction of a residential use within an employment area and uses Policy 5 of the Cornwall Local Plan (CLP) which explicitly relates to the safeguarding of business land. As such, the Council's appeal case in relation to the adequacy of the marketing strategy and the effect on adjacent businesses through potential noise disturbance does not amount to the introduction of a new reason for refusal, but constitutes an amplification of the Council's decision, within the realms of Policy 5.
5. At the appeal the Council introduced the living conditions of future occupants of the flats as an issue. However, this issue is interrelated to the Council's broader case, and I do not therefore consider that it directly caused the appellant

unnecessary costs within the appeal process. The Economic Land Assessment is part of the evidence base for the CLP. As such, I do not consider its use at the appeal to be unreasonable.

6. The Council's concern relating to noise addresses the appellant's case and is substantiated by an assessment of the design of the flats and their close proximity to individual businesses. I do not therefore find the Council's position on this matter to be vague. Although no substantive evidence of conflict has been produced to demonstrate the Council's concerns, the burden of proof lies with the proposal to establish policy compliance.
7. Although I agree with the applicant that the site is not within the countryside, the Council did not refuse the application nor defend the appeal on that basis, and therefore the assertion made at committee that the site is within the countryside has not led to unnecessary cost at the appeal.

Conclusion

8. I appreciate that the Council's contrasting approach to the proposal before and after the decision to refuse the planning application will have caused frustration. However, officer recommendations are formulated without prejudice to the final decision made by members, and I consider the Council's conduct at the appeal to be broadly consistent with the decision reached by the planning committee. Taking all matters raised into account, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Matthew Jones

INSPECTOR