



Costs Decision

Site visit made on 3 July 2019

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2019

Costs application in relation to Appeal Ref: APP/D0840/W/19/3226497 Land east of St Levan's Church, Higher Porthpean, PL26 6AY

- 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 Sarah Gardner, Shaun Christie and Anna Christie for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for a proposed dwelling.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The appellant's application for costs raises both substantive and procedural points. The PPG states that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal or if they have behaved unreasonably from a procedural point of view. Whilst I note that the Council have questioned whether the appellant can claim their own costs, the PPG advises that "*Costs may include, for example, the time spent by appellants and their representatives, or by local authority staff, in preparing for an appeal and attending the appeal event, including the use of consultants to provide detailed technical advice, and expert and other witnesses.*"
4. The appellant contends that the Planning Committee bowed to pressure, from interested parties and the Parish Council, in refusing the appealed application contrary to the recommendation of its Planning Officers, which followed on from positive feedback provided by Planning Officers at the pre-application stage.
5. The Planning Committee and local planning authority are not bound to accept the advice or recommendation given by its Planning Officers. Similarly, it is not uncommon for Planning Committee's to disagree with the advice of its Officers or in applying their own judgement, to reach a different view, to that of their Officers, on the planning merits of a proposal. There can, therefore, be no guarantee that a positive response from Officers will lead to an application being approved. Moreover, there is no evidence before me to suggest that the

Planning Committee were not aware of their obligations, to weigh up all the relevant issues and submissions, in reaching a balanced decision.

6. Furthermore, the appellant's concerns in this respect appear to only relate to the period leading up to the determination of the planning application. The PPG confirms that costs cannot be claimed in such circumstances, but that the behaviour at the time of the planning application can be taken into account when considering whether or not costs should be awarded in relation to unreasonable behaviour during the appeal process.
7. Whilst the appellant has made reference to submissions by interested parties in relation to the planning application, which they contend were made too late and should not have been considered, my attention has not been drawn to any appeal submissions that were made late or were not made in accord with the set timetable. The evidence before indicates that all the appeal submissions were made in a proper and timely manner, and that both parties were given an opportunity to comment on their respective submissions, as well as those received from interested parties.
8. Any outstanding complaints that the appellant may have in relation to the administration of the planning application and/or the procedures at the Planning Committee meeting, are matters that should be taken up directly with the local planning authority.
9. The appellant also contends that the Planning Committee and local planning authority were not in a position to reach the decision they did and prevented development which should have been permitted. However, I have found the appeal proposal to be unacceptable having regard to local and national policies on the location of housing, and the impact of the proposed development on the character and appearance of the area. Those findings were based on the evidence presented by the local planning authority, the policies of the development plan and National Planning Policy Framework, and my own observations on site.
10. For the above reasons, I cannot agree that the Council has acted unreasonably in this case and as such there can be no question that the appellant was put to unnecessary or wasted expense in the appeal.

Conclusion

11. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

G Roberts

INSPECTOR