



Costs Decision

Site visit made on 21 August 2019

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2019

Costs application in relation to Appeal Ref: APP/D0840/W/19/3229859 Two Burrows Farm, Proposed Campsite, Road from Two Burrows to North Hill, Two Burrows, Blackwater TR4 8HN

- 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 Mr Nigel Gosling.
 - The appeal was against the refusal of planning permission for bungalow with double garage.
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Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises that, irrespective of the outcome of the appeal, 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. The Guidance advises that parties who pursue an appeal unreasonably without sound grounds for appeal, may have an award of costs made against them. It confirms that awards against appellants may be either substantive, relating to the planning merits of the appeal, or procedural, having regard to behaviour in relation to completing the appeal process. The applicant is seeking a full award of costs on both substantive and procedural grounds.
4. The Guidance confirms that an appellant is at risk of an award of substantive costs being made against them if the appeal or ground or appeal had no reasonable prospect of succeeding. One of the situations in which this may occur, as listed in the Guidance, is when the development is clearly not in accordance with the development plan, and no other material considerations are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
5. The applicant claims that the appellant has acted unreasonably by misreading the reason for refusal by assuming that the principle of a new house on the appeal site is acceptable when it clearly does not accord with Policies 3 and 7 of the Cornwall Local Plan Strategic Policies 2010 – 2018 (LP) and that no attempt has been made by the appellant to assess the proposal against the criteria of these policies.

6. I do not find that the appellant has acted unreasonably in making the appeal, since LP Policies 3 and 7, and Paragraph 79 of the Framework all include certain circumstances where new dwellings are acceptable in principle outside defined settlement boundaries. I have not been persuaded by the appellant's case and I have dismissed the appeal. However, the appellant has put forward arguments in support of the new dwelling based on the accessibility of the site to Blackwater village, the character of the surrounding area, the visual impact of the proposal, and the proposed use of the dwelling in connection with a future campsite business. Accordingly, and since the principle of a new dwelling on the site has not previously been tested on appeal, I find that the appellant is entitled to make the current appeal and has not acted unreasonably in so doing.
7. The applicant also claims full costs on procedural grounds with respect to the appellant's submission, at appeal stage, of an outdated LVIA relating to a different development proposal. The Council's reason for refusal does not specifically relate to the landscape visual impact of the proposal. The 2015 LVIA has been submitted as additional information in support of the appellant's statement of case, and, whilst relating to a different scheme, this is explicit in the submission, as is the date of the document. I do not find that the appellant has acted unreasonably by including the LVIA within the statement of case, since the weight that can be afforded to it is limited, and the applicant would be aware of this when producing the Council's statement of case.
8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

S Leonard

INSPECTOR