The Planning Inspectorate

Appeal Decision

Site visit made on 18 September 2019

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2019

Costs application in relation to Appeal Ref: APP/D0840/W/19/3221863
Land South of Chyvarton, Upton, Bude, Cornwall, EX23 0LY

- 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 Mr William Daniel for a partial award of costs against the decision of Cornwall Council.
- The appeal was made against the refusal of an application, Ref PA18/07827, which sought outline planning permission for two new dwellings with all matters reserved except for access.

Decision

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

Reasons

2. Planning Practice Guidance (guidance) advises that, irrespective of the outcome of the appeal, costs may only 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.

3. The Appellant argues that there has indeed been unreasonable behaviour by the Council. In short the Council's Decision Notice refers to the appeal site as lying within Cornwall Area of Great Landscape Value (AGLV) and it does not. The Appellant contends that had the Council accurately assessed the site against the actual undesignated landscape environment, and not as a designated AGLV (with the primary objective therein being conservation and enhancement of the landscape quality and individual character), it may have come to a different conclusion. The belief that this was AGLV likely swayed the decision. Even if it had not come to a different conclusion the case is put that the Appellant would still have had to spend time on the point. The Appellant underlines that resources have been expended within the Appeal Grounds to address a material and irrational error.

4. The Council has responded to the Appellant's claims. It says that it acknowledged at the earliest opportunity through its appeal statement that the site does not fall within an AGLV or impact on the AGLV. It is put that had there been any contact by the Appellant to the case officer prior to the submission of the appeal to highlight this discrepancy it is likely that the Council would have acknowledged the error prior to the submission of the Appellant's statement. Taking the content of the officer's report the Council seeks to show that AGLV consideration did not weigh heavily in the consideration of merits or demerits of the scheme and that AGLV was not listed

in the constraints section of the report. The scheme would have been refused notwithstanding this flawed reference to the landscape's designation. Furthermore the Council argues that only a very small part of the Appellant's appeal work has had to deal with the AGLV matter.

5. The general principle embodied within the guidance is that the parties involved should normally meet their own expenses. I have carefully considered the matter of a partial award of costs.

6. It is regrettable that this error was made. However my assessment is that the outcome would have been the same, the question of 'rounding off' would still have taken centre stage, the appeal would have had to be made, and the same factors would have had to have been argued even if the officer's report and the Decision Notice had not mentioned AGLV. I note that the Council did not refer to inappropriate planning policies in its Decision Notice. General landscape and other concerns are unequivocally set out by the Council and matters of judgement have been reasonably made. In any event the time spent by the Appellant's well-versed locally-based professional adviser on the AGLV matter would have been, in my opinion, exceedingly brief and would not warrant all even a minimal partial costs award.

7. Whilst acknowledging that a modest error was made, I would assess that the Council assertions in the round on this case have been substantiated and its actions throughout the process have not been irrational.

8. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in the planning guidance, has not been demonstrated.

D Cramond

INSPECTOR