



Costs Decision

Site visit made on 10 December 2019

by Colin Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 December 2019

Costs application in relation to Appeal Ref: APP/D0840/W/19/3236914 8 Upper Polmear, Par PL24 2FY

- 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 Shane Harman
 - The appeal was against the refusal of grant subject to conditions of planning permission for 'erection of 16 residential units comprising of 50% affordable dwellings and 50% open market dwellings'.
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Decision

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

Reasons

2. The Officer Report and Decision Notice is clear that the Council's concern with the proposal is not the balcony itself but the implications of granting planning permission under section 73 of the Town and Country Planning Act 1990. In the absence of a new section 106 agreement (or revisions to the existing one) affordable housing provision on the estate would be jeopardised.
3. Yet while the appellant's appeal documents acknowledge that a householder application (under section 78) may have been successful, it was nonetheless his right to pursue an appeal against the Council's refusal. However, the NPPG¹ advises that the right of appeal should be exercised in a reasonable manner.
4. The Council draw my attention to paragraph 053 of the NPPG which lists examples of behaviour that may give rise to a substantive award of costs against an appellant. This includes where the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence.
5. While the appellant was professionally represented at the application stage, it is not clear that he benefitted from professional advice during the appeal. Nevertheless, the appellant's statement refers to the National Planning Framework and the tests that apply to planning obligations (and conditions). Examples are also given of other balcony developments in the area.

¹ National Planning Practice Guidance.

6. In his final comments, the appellant attempts to justify the loss of affordable housing by quoting current housing needs statistics. Although the Council may not find these arguments very compelling, the appellant nonetheless provided evidence directly relevant to the reasons for refusal. I therefore consider that the appellant exercised his right of appeal in a reasonable manner having regard to paragraph 053 of the NPPF.
7. For the above reasons, I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Colin Cresswell

INSPECTOR