
Costs Decision

Site visit made on 6 January 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 05 February 2020

Costs application in relation to Appeal Ref: APP/D0840/W/19/3235305 50 Trefusis Road, Flushing, Falmouth TR11 5UB

- 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 Adam Proctor for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the construction of boathouse building to store boats with annexe accommodation for holiday use above (amendment to existing approval PA16/05628).
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Decision

1. The application for a full award of costs is refused.

Reasons

2. The Planning Practice Guidance (the 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 or wasted expense in the appeal process¹.
3. The Council's decision notice provides a single reason for refusal which contained two elements, firstly that the appeal scheme would adversely affect the integrity of the Fal and Helford Special Area for Conservation (the SAC) and, secondly that the proposal would be harmful to the character and appearance of the surrounding area including the Cornwall Area of Outstanding Natural Beauty (the AONB).
4. The Applicant maintains that the Council have acted unreasonably in respect of delaying a development which the Applicant contends clearly should have been permitted and that the Council introduced new arguments within their statements with regards to the Council's current five year housing land supply position.
5. In respect of whether the Council delayed development that the Applicant maintains was in accordance with the development plan, it will be seen from my decision that whilst I have found that the proposed change of use to holiday accommodation would result in some localised harm to the AONB, a number of improvements which are provided under the appeal scheme, would enhance the AONBs natural beauty. Furthermore, it will be seen from my decision that, in my view, the proposal would not be harmful to the character

¹ Paragraph: 030 Reference ID: 16-030-20140306

and appearance of the surrounding area. The proposal would therefore accord with the identified policies of the development in this regard.

6. However, it will also be seen from my decision, following an Appropriate Assessment, that the appeal scheme would not provide adequate measures to avoid and mitigate its potential adverse effects on the integrity of the SAC. This would be contrary to the aims and objectives of the National Planning Policy Framework (the Framework) with regards to the protection of habitats and biodiversity, and would be in conflict with Policy 22 of the Cornwall Local Plan Strategic Policies 2010-2030. Overall, the appeal scheme therefore would not comply with the development plan when taken as whole. As such, I conclude that the Council have not acted unreasonably in relation to delaying a development that accords with the development plan.
7. In respect of the inclusion of additional material within the Council's statement of case with regards to the position of the five year housing land supply, whilst I concur with the Applicant that it was not in itself reason to withhold permission, the information appears to have been provided in order to confirm the position that paragraph 11 d) of the Framework would not be engaged in respect of the appeal proposal.
8. I acknowledge that the decision notice and reason for refusal made no reference to the five year housing land supply position. However, the Applicant's response to this reference was straightforward, and does not appear to have involved extra assessment or, indeed, anything beyond a short rebuttal. Therefore, it seems to me that, in reality, there has been so little extra work involved in responding on the reference to the five year housing land supply, that it can be regarded as 'de minimis'. As such, I conclude that the Council have not acted unreasonably in this regard.
9. In conclusion, I find that the Council has not acted unreasonably in the appeal process and the Applicant has not been put to unnecessary or wasted expense. Accordingly, an award of costs is not justified.

A Spencer-Peet

INSPECTOR