
Costs Decision

Site visit made on 3 February 2020

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

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

Costs application in relation to Appeal Ref: APP/D0840/W/19/3240165 Camborne Retail Park, Trevenson Road, Camborne TR15 3PS

- 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 Canynge Bicknell (Investments) Ltd for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for proposed variation of condition 1 on planning permission PA18/05073, dated 14 February 2019.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) 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 expense in the appeal process.
3. The PPG includes examples of unreasonable behaviour by planning authorities. Amongst other things, this can include, "preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations", and "vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis". Furthermore, Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they fail to substantiate each reason for refusal.
4. The Applicant has put it to me that, whilst it is accepted that Council Members are not bound to follow their officer's recommendations, it is reasonable to expect that evidence and analysis is provided to justify departure from the Officer's recommendation. The Applicant maintains that the Council have failed to provide any such evidence and that consequently they have delayed development which, in their view, should clearly be permitted.
5. In this regard, I find that the Council provided a statement which examines the relevant policies of the development plan and other documents which the Council used in the formulation of policies and strategies which went into the development plan. Furthermore, the Council's statement provides an analysis of the Local Plan Retail Floorspace Capacity Requirements 2010-2030 table contained with the development plan, in support of the reason given for refusal.

6. Whilst it will be seen from my decision on the main issue, that I disagree with the Council's position with regards to the effect and impact of varying the condition which was in dispute, I find that the statement of case provided by the Council was well constructed and comprehensive in terms of why the Council considered the proposed variation to the disputed condition would result in an adverse impact on the vitality of Camborne town centre, with particular reference to floorspace capacity.
7. In my view, the Council have therefore provided an analysis of the evidence which was used in formulating the policies of the development plan and have made a case that the proposed variation would have an adverse impact on the vitality of Camborne town centre. Whilst I do not agree with the Council's conclusions in this regard, I find that the Council Members did provide reasons for not accepting the Council Planning Officer's recommendation, and were justified in reaching their decision.
8. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. The application for a full award of costs is, therefore, refused.

A Spencer-Peet

INSPECTOR