
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/19/3240028 Tresournes Farm, Tresillian, Truro TR2 4AP

- 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 C Julyan for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for development described as a proposed farm diversification project to provide three exemplar farm based holiday eco lodges, new access track and associated works.
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Decision

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

Reasons

2. Planning Practice Guidance (the 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. Parties in planning appeals and other planning proceedings normally meet their own expenses.
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"
4. On the first of these issues, the Appellant maintains that the Council prevented the proposed development which it is maintained should have been clearly permitted in accordance with the provisions of the development plan. Specifically, the Appellant contends that the Council failed to take into account that farm diversification is supported by criterion 1.c) of Policy 5 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan).
5. It will be seen from my decision that whilst I concur that criterion 1.c) of Policy 5 of the Local Plan does provide support for farm diversification projects, this is subject to certain requirements including demonstrating that there is an overriding locational need. Furthermore, the wording of Policy 5 of the Local Plan should be taken as a whole. In this instance, whilst the proposal has been submitted as a farm diversification project, it also comprises new holiday accommodation. Consequently, criterion 3. of Policy 5 of the Local Plan applies

- and confirms that support will be provided subject to certain circumstances and requirements including the accessibility of the appeal site.
6. For the reasons given in the main decision, in my view, Policy 5 of the Local Plan must be taken as a whole in the assessment of the proposal. The support offered under criterion 1.c) of Policy 5 of the Local Plan, does not equate to automatic approval, but rather indicates that the principle of development may be acceptable subject to certain requirements. In this instance, from the evidence before me, I have concluded that there is doubt as to there being an overriding locational need for the proposed lodges to be located at the appeal site.
 7. I find that the information contained within the officer's report to have been well constructed and comprehensive in terms of the assessment of the proposal against the whole of Policy 5 of the Local Plan. The Officer has provided an analysis of the Policy, both in terms of criterion 1.c) and in terms of criterion 3 and applied this in relation to the appeal scheme. Consequently, I do not consider that the Council have acted unreasonably in this respect.
 8. On the second issue of whether vague, generalised or inaccurate assertions about the appeal scheme's impact on the character and appearance of the surrounding area were provided by the Council, I again find that the information contained within the officer's report was comprehensive with regards to describing the area surrounding the appeal site and understanding how the proposed development would integrate into the area. I further find that the report provides clear and understandable reasons to substantiate the refusal on these grounds. As such, and given that I have found harm in relation to the character and appearance of the surrounding area, I conclude that the Council have not acted unreasonably in this respect.
 9. Further to the above matters, the Appellant has raised concerns regarding the planning application fee as charged by the Council. However, the recovery of the application fee falls outside the scope of the costs regime because it does not concern a cost associated with the making of the appeal. While such fees are therefore outside the scope of this decision, it remains open to the Applicant to pursue such matters through the Council's complaints procedure for investigation.
 10. 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