
Costs Decision

Site visit made on 17 February 2020

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 March 2020

Costs application in relation to Appeal Ref: APP/D0840/D/19/3242327 25 Polmor Road, Crowlas TR20 8DW

- 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 and Mrs C Payne for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for extension & alterations (to accommodate elderly family member).
-

Decision

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

Reasons

2. The Planning Practice Guidance (the PPG) advises that 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 process.
3. The basis of the application is that the Council:
 - a) prevented development that should have been permitted;
 - b) failed to produce accurate and consistent evidence to support its reasons for refusal; and,
 - c) made vague, generalised assertions about the proposal's impact, repeating the concerns of third-party objectors, rather than a full assessment of the impacts based on the submitted scheme and the context of the site.
4. The PPG indicates that local planning authorities are at risk of an award of costs, if they prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations. The applicant states that the development should have been approved, because it accords with the council's Annex Guidance Note, which was not considered by the council in its determination of the application. I considered the Guidance Note in my decision and found that the development did not accord with one of the criteria. Furthermore, I concluded that the proposals were in conflict with development plan policies, national policy and the council's design guidance. It therefore follows that I do not consider that the council prevented development that should have been permitted.

5. The PPG indicates that local planning authorities are at risk of an award of costs if they fail to produce evidence to substantiate each reason for refusal on appeal. The applicant contends that no evidence has been produced to demonstrate why the appeal proposal results in any adverse impacts. As the appeal was determined under the Householder planning appeal procedure, the council's case was its reasons for refusal and the documentation supplied with the questionnaire. This documentation included a comprehensive Officer Report, which set out a balanced view of the proposal, and provided a clear explanation for each of the reasons for refusal.
6. Whilst I did not agree with the council's conclusion regarding the impact on the living conditions of adjoining occupants, the report provided sufficient justification for how it had arrived at a contrary view. I therefore find that the council has adequately substantiated its reasons for refusal.
7. The PPG indicates that local planning authorities are at risk of an award of costs if they make vague, generalised or inaccurate assertions about a proposal's impact, which are not supported by any objective analysis. In this regard, the applicant suggests that the council has failed to take account of the prevailing terraced context of the site. However, it is clear that the council was fully aware of the nature of the surrounding development, as the Officer Report provides an accurate description of the site. It also explains, with specific reference to the proposals and the appeal site context, why the proposed extension was considered harmful to the character and appearance of the area. I found the council's reasoning to be site-specific and adequate in detail.
8. The Officer Report set out a balanced consideration of the issues raised by third parties, explaining why some were considered material to the decision, whereas others were not. I can see no evidence that the council was merely repeating the concerns of third-party objections, rather than properly assessing the impacts of the scheme.
9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Nick Davies

INSPECTOR