



Costs Decision

Site visit made on 16 December 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2020

Costs application in relation to Appeal Ref: APP/D0840/W/19/3232569 4 Sea Craig, Carrick Way, St Mawes TR2 5BB

- 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 Leclercq for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for construction of a replacement dwelling house with separate garage and residential amenity space without complying with a condition attached to planning permission Ref APP/D0840/W/16/3158470, dated 26 May 2017.
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Decision

1. The application for costs is refused.

Reasons

2. The 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 where this has directly caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicants submit that the Council prevented development from proceeding that should have been permitted and, in doing so, failed to produce accurate and consistent evidence to support its reason for refusal and made vague, generalised assertions about the impact of the proposal. The Council acted contrary to its own relevant decisions and appeal decisions and also failed to apply sufficient weight to the fallback position.
4. The Council did prevent development that I have found should have been permitted. However, this was by no means clear cut, and the Council set out an adequately detailed and substantive case. The reasoning set out within the officer report is particularly lucid. Photographic evidence is not a prerequisite to forming a view. Given also that the Council's case was site specific and based on the individual circumstances of the proposal, I find no material inconsistency with the other Council decisions raised by the applicants.
5. The Council had regard to the benefits of the proposal put forward by the applicants, and the fallback position, as articulated within the officer report. Similarly, the appeal decisions put forward by the applicants were not ignored but influenced the Council's reasoning and its application of the relevant development plan policies. The weight attributable to these factors was a matter of planning judgment.

Conclusion

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Matthew Jones

INSPECTOR