
Costs Decision

Site visit made on 21 July 2020

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2020

**Costs application in relation to Appeal Ref: APP/D0840/W/20/3248222
Glencoe Vean, Lane From Junction South Of Terrigal To Glencoe, Goonearl,
Scorrier TR16 5EB**

- 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 Cornwall Council for a full award of costs against Mr Mark Hitchen.
 - The appeal was against the refusal of planning permission for change of use and extension to existing ancillary accommodation to form detached residential C3 dwelling.
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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 appellant has misunderstood the implications of the planning history of the site; that the development is clearly not in accordance with the development plan; and that the appellant pursued the appeal unreasonably without sound grounds.
4. The PPG indicates that appellants are at risk of an award of costs if the appeal had no reasonable prospect of succeeding, because the development is clearly not in accordance with the development plan, or, the appeal follows a recent appeal decision for a very similar development, on the same site, where an Inspector decided that the proposal was unacceptable.
5. The planning history of the site is complicated, but it is accurately set out in the appellant's Statement of Case (SoC). Paragraph 2.2 of the SoC acknowledges that on completion of the adjacent new build residential dwelling, the planning condition requires the use of the building to revert to ancillary accommodation. Furthermore, the SoC states that the appeal is in relation to an application to extend the existing building to provide a three-bedroom dwelling, with the removal of the ancillary use restriction to allow full residential use. At paragraph 2.7 it is recognised that the appeal scheme would result in a net increase in the number of individual residential units on the site and in the immediate vicinity. The evidence does not, therefore, indicate that

the appellant has misunderstood the implications of the planning history of the building.

6. The appellant was, however, mistaken in believing that the proposal could be significantly amended as part of the appeal. I have explained why I could not consider the alternative scheme in my decision letter on the appeal. The Council had already considered, and refused, a planning application for the alternative proposal, prior to preparing their statement, so did not expend any wasted expense in considering it as part of the appeal process.
7. I concluded in my decision letter that the proposal conflicted with the settlement policies of the Local Plan. However, in coming to this view, there was an element of judgement involved in considering whether the group of buildings in the vicinity of the appeal site comprised a settlement. This was not a matter that the Inspector had to consider in the earlier appeal, as the development, at that stage, was presented as a replacement dwelling. Consequently, the requirements of Policy 3 were not a matter for consideration, as compliance with Policy 7 of the Local Plan was not predicated on the site being within or adjoining a settlement.
8. Whether the site is suitable for a new dwelling under the terms of Policy 3 has not, therefore, been the subject of a formal decision since adoption of the Local Plan in 2016. I concluded that it is not, but Policy 3 leaves significant scope for interpretation and judgement in determining whether a site falls within a settlement and, subsequently, whether a proposal would constitute rounding off, infill or development of previously developed land. The appeal proposal was not so clearly without merit in this regard as to have had no reasonable prospect of succeeding.
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