
Costs Decision

Site visit made on 10 September 2020

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

an Inspector appointed by the Secretary of State

Decision date: 17 September 2020

Costs application in relation to Appeal Ref: APP/D0840/W/20/3252019 Penaluna, Quarry Lane, Paul, Penzance, Cornwall TR19 6TW

- 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 Richard Gilling.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for the change of use of existing ancillary accommodation at Penaluna to form a separate dwelling.
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Decision

1. The application for a full award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs may only be awarded against a party which has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG also states that awards against applicants may be either procedural in regard to behaviour in relation to completing the appeal process or substantive, which relates to the planning merits of the appeal. In this instance, the Council is seeking a full award of costs in relation to procedural matters.
4. The Council have put it to me that the unnecessary or wasted expense in the appeal process has been incurred by reason of the Appellant not providing any statement of case which provided a full disclosure of the facts and arguments that the Appellant wished to rely on in respect of the appeal.
5. In this regard, the PPG makes clear the types of behaviour which may give rise to a procedural award of costs against an appellant and, amongst other things, this includes delays in providing information or other failures to adhere to the deadlines of the appeal process.
6. Paragraph 2.5.1 of the Procedural Guide Planning Appeals – England makes it clear that appellants must set out their full statement of case when making the appeal, in accordance with the details provided within Appendix J of that same procedural guide document. Appendix J provides extensive and clear details of the information and evidence that must be provided in relation to the appellant's statement of case.

7. In this instance, it is evident from the submissions and documents before me that whilst a completed appeal form and plans were provided in support of the appeal, no statement of case in any form or type, which contained full details of relevant facts or planning arguments, has been provided by the Appellant. It is further noted that extensive efforts were made by the Planning Inspectorate at the commencement of the appeal procedure, to obtain a full statement of case from the Appellant and that, following those efforts, no statement of case was provided by the Appellant in support of the appeal.
8. It is, however, apparent from copies of correspondence between the main parties during the planning application, that the Council attempted to proactively discuss the merits of the planning application with the Appellant and, in this regard, discussed the reasons the Council would have given for refusing the proposed development and the policy considerations that the Council assessed as being relevant to the planning application.
9. Given that no statement of case was provided by the Appellant, nor any information provided in support of why the proposal would be acceptable in planning terms or would accord with the provisions of local or national planning policy, in responding to the appeal the Council has not been able to limit the scope of their submissions to those matters which remained in dispute. Consequently, the Council has prepared an extensive statement which sought to address a broad range of issues, given that no details of what areas of dispute remained between the parties was provided by the Appellant.
10. In light of the above, and given the clear guidance and information that is provided to appellants with regards to procedural matters during the appeal process, in my view the Council has been put to unnecessary and wasted expense in relation to the preparation of the Council's appeal submissions.
11. In summary, for the above reasons I conclude that the Appellant has acted unreasonably with regards to procedural matters during the appeal process and, thereby, has caused the Council to incur unnecessary costs in this appeal.

Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Richard Gilling shall pay to Cornwall Council the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
13. The Council is now invited to submit to the Appellant, to whom a copy of this award has been sent, details of those costs with a view to reaching agreement as to the amount.

A Spencer-Peet

INSPECTOR