



Costs Decision

Site visit made on 30 September 2020

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2020

Costs application in relation to Appeal Ref: APP/D0840/W/20/3249968 Land at Chapel Meadow, Chapel Meadow, Porthtowan

- 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 SPS Architectural for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for erection of a 3 bed dwelling.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may 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.
3. The appellant indicates that their application for costs raises a substantive point. In my view, the application also raises a procedural point, and I have, therefore, determined the application on that basis.
4. The PPG states that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal or if they have behaved unreasonably from a procedural point of view.
5. The appellant contends that the Planning Committee bowed to pressure from an interested party in refusing the appealed application contrary to the recommendation of its Planning Officers.
6. The Planning Committee and local planning authority are not bound to accept the advice or recommendation given by its Planning Officers. Similarly, it is not uncommon for Planning Committee's to disagree with the advice of its Officers or in applying their own judgement, to reach a different view, to that of their Officers, on the planning merits of a proposal. There can, therefore, be no guarantee that a positive response from Officers will lead to an application being approved. Moreover, there is no evidence before me to suggest that the Planning Committee were not aware of their obligations, to weigh up all the relevant issues and submissions, in reaching a balanced decision.

7. Furthermore, the appellant's concerns in this respect appear to only relate to the period leading up to the determination of the planning application. The PPG confirms that costs cannot be claimed in such circumstances, but that the behaviour at the time of the planning application can be taken into account when considering whether or not costs should be awarded in relation to unreasonable behaviour during the appeal process.
8. Any outstanding complaints that the appellant may have in relation to the procedures at the Planning Committee meeting are matters that should be taken up directly with the local planning authority.
9. The appellant contends that the Planning Committee and local planning authority were not in a position to reach the decision they did and prevented development which should have been permitted. Whilst I have found the appeal proposal to be acceptable, that finding was based on the evidence presented by the local planning authority, the policies of the development plan and the National Planning Policy Framework, and my own observations on site.
10. In relation to the local planning authorities' submissions, I am satisfied that its reason for refusal was reasonably precise in terms of identifying the harm that they alleged, as well as the policies of the development plan that the Council considered the proposal to be in conflict with. This reason for refusal was then substantiated by the evidence set out in the Council's Appeal Statement.
11. The appellant contends that the Council behaved unreasonably in introducing new documents in their Appeal Statement, that were not referred to in their reason for refusal. The Council has pointed out that these documents had already been referred to in the Appellant's Statement. One of the documents was also included in the list of relevant policies on the decision notice. The appellant also had the opportunity to comment on these documents in responding to the Council's Appeal Statement, and did so in their Final Comments.
12. Whilst I agree with the appellant that these documents should have been referred to in the reason for refusal, for the reasons given above, I do not consider that their omission resulted in any prejudice to the appellant or that, in this case, it would amount to such unreasonable behaviour as to justify an award of costs.
13. For the above reasons, I cannot agree that the Council has acted unreasonably in this case and as such there can be no question that the appellant was put to unnecessary or wasted expense in the appeal.

Conclusion

14. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. An award of costs is therefore not justified.

G Roberts

INSPECTOR