
Costs Decision

Site visit made on 20 October 2020

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

an Inspector appointed by the Secretary of State

Decision date: 02 November 2020

**Costs application in relation to Appeal Ref: APP/D0840/W/20/3256590
Land Adjacent to Linfield House, High Street, St Keverne, Helston,
Cornwall TR12 6NS**

- 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 Ms Sara Cordall for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for reserved matters application with access, appearance, landscaping, layout and scale.
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Decision

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

Reasons

2. The application for costs does not indicate whether the Applicant is seeking a full or partial award of costs against the Council. However, on the basis of the submissions made by the main parties, I consider that the application seeks a full award of costs and I have determined this matter on that basis.
3. 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 and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
4. The basis of the application concerns the fact that Council Planning Officers recommended that planning permission be granted for the proposal, but that the Council Members took a different view. Furthermore, the Applicant asserts that the Council Members did not adequately justify why planning permission was not granted despite the Council Planning Officer's recommendation that permission be given in relation to the amended scheme. The PPG indicates that local planning authorities will be at risk of an award being made against them if they fail to substantiate each reason for refusal.
5. It is noted that the effect of the appeal scheme on the character and appearance of the neighbouring dwelling at Linfield House, the effect of the appeal scheme on the character and appearance of the surrounding area and the resulting impact on the landscape and scenic beauty of the Cornwall Area of Outstanding Natural Beauty (the AONB), was of great concern to a number of interested parties including the Parish Council. Specifically, the concerns raised focused on the scale, position and orientation of the proposed dwelling as well as the impact of the scheme on

hedges which surround the site. It is clear from the Committee Minutes and evidence before me, that these concerns were thoroughly and robustly assessed by Council Members before reaching their decision.

6. Accordingly matters concerning the effect of such appeal schemes on the character and appearance of the surrounding area, is a subjective judgement. As such The Council Members in this case were entitled not to accept the professional advice of Council Planning Officers, so long as a case could be made for the contrary view.
7. In this regard I note that the Council Members gave clear and substantive reasons as to why they disagreed with the Council's Planning Officer, and that permission for the scheme would not be provided until concerns regarding the impact on character and appearance of the surrounding area had been addressed. The Council Members noted that the site is located within the AONB and were mindful that significant emphasis should be placed on the protection and conservation of the AONB. In these regards, it was reasonable for the Council to cite paragraphs 130, 170 and 172 of the National Planning Policy Framework (the Framework) within its reasons for refusal.
8. In addition to the above, the Applicant contends that the Council were unreasonable in citing conflict with Policy 1 of the Cornwall Local Plan Strategic Policies 2010-2030 (the Local Plan) and paragraph 11 of the Framework. In this regard, it has been put to me that as the principle of development had been established by approval of an outline application, the proposal must represent sustainable development.
9. However, the evidence before me indicates that the Council Members considered that, due to the design and scale of the proposal, the scheme would have a harmful effect on the character and appearance of the built environment in relation to Linfield House, and would be harmful to the character and appearance of a designated landscape in relation to the AONB. As a consequence of this alleged harm, the proposal would not accord with the environmental dimension of sustainable development and therefore, in considering its effects, it was appropriate for the Council to refer to Policy 1 of the Local Plan and to paragraph 11 of the Framework.
10. In any event, whilst it will be seen from my decision that I have found that there would be no harm in relation to the environmental objective of sustainable development, the appeal would still have to have been made in relation to harm that was identified by Council Members in relation to the impact on Linfield House and whether the proposal would amount to the conservation and enhancement of the AONB. It therefore seems to me that in responding to matters concerning the application of the cited policy and Framework paragraph, there does not appear to have been any additional work or expense involved which would not otherwise would have been necessary.
11. Taking all of the above into account, I find that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated in this case and that an award of costs is not justified.

A Spencer-Peet INSPECTOR