
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: 03 November 2020

Costs application in relation to Appeal Ref: APP/D0840/W/20/3255076 Polstangey Praise, Ruan Minor, Helston TR12 7LS

- 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 & Mrs Bristow for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the change of use of recreational paddock to mixed use of recreational paddock and the stationing of two shepherds huts for additional holiday accommodation to support the existing letting business.
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Decision

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

Reasons

1. 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.
2. The PPG includes examples of unreasonable behaviour by planning authorities. Amongst other things, this can include, preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations, vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis and not determining similar cases in a consistent manner.
3. With regards to determining similar cases in a consistent manner, the Appellants have drawn my attention to a number of proposals for small scale holiday accommodation that has been previously permitted by the Council. While these matters have been noted by the Council within their submissions, the Council considers each site to be different and as such each application should be assessed on its own merits.
4. In respect of the Appellants' cited cases, whilst I have been provided with some details of these matters which the Applicants maintain are comparable to their application, I am not aware of all of the circumstances that applied in those cases, and I therefore cannot be sure that they represent a direct parallel to the appeal proposal. In relation to the development at Penhallym I have only been provided with a copy of the Council's decision notice and therefore have

no information regarding the considerations and planning judgements that the Council made in respect of that development.

5. Nonetheless, it would appear from the limited evidence before me that the cases cited by the Applicants, and which were approved by the Council, can be distinguished from the appeal scheme. With regards to the development at Wrinklers Wood it was found that alternative sustainable means of transport would be available for visitors and thus this position is not comparable to the appeal proposal. Furthermore, the development at Reddivallen concerned a farm diversification proposal and the development at Ponsongath was located adjoining a settlement where the proposal was found to be of an appropriate scale to the location and that there appeared to be a business need to be at that specific location. These circumstances are not applicable to the appeal scheme and, as noted within my decision, I do not consider any of the examples given are directly comparable to the appeal scheme.
6. It will also be seen from my decision that I agree with the Council in respect of the application of development plan policies related to the location of development and to the provision of tourist accommodation. In this regard, it is clear from the officer's report and the Council's subsequent statement of case, that the Council considered the proposal against the relevant development plan policies as well as the Framework. It follows that the Council has not misapplied policies of the development plan or prevented development from proceeding and which should have been permitted.
7. With regards to the issue of whether vague, generalised or inaccurate assertions about the appeal scheme's impact on the Cornwall Area of Outstanding Natural Beauty (the AONB) were provided by the Council, I find that the information contained within the officer's report was comprehensive with regards to describing the area surrounding the appeal site and understanding how the proposed development would integrate into the area. I further find that the report provides clear and understandable reasons to substantiate the refusal on these grounds. As such and given that I have found harm in relation to the landscape and scenic beauty of the AONB, I conclude that the Council have not acted unreasonably in this respect.
8. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. The application for a full award of costs is, therefore, refused.

A Spencer-Peet

INSPECTOR