



Costs Decision

Site visit made on 28 October 2020

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2020

Costs application in relation to Appeal Ref: APP/D0840/W/20/3256139 Land east of Cuttivet, Cuttivet, Landrake PL12 5AW

- 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 Leah White for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for Demolition of existing property and construction of replacement dwelling, provision of garden amenity space and vehicular access without complying with conditions attached to planning permission Ref PA19/03193, dated 19 July 2019.
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Decision

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

Reasons

2. The 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 or wasted expense in the appeal process. The applicant considers that the Council acted unreasonably by, amongst other things, failing to provide sufficient information and justification in their appeal statement to properly explain and justify their decision to refuse planning permission.
3. The costs application alleges that the Council's appeal statement includes factually incorrect information. The Council is also said to have deviated from its normal and established decision making and approach to protruding balconies, Juliet balconies and privacy screens serving balconies. I have noted what appear to be some minor mistakes and the odd typographical error in some of the Council's documents. However, they are not particularly significant and do not create such uncertainty that they could be reasonably considered as equating to unreasonable behaviour. Overall, the Council's submissions are not particularly vague, generalised or inaccurate, and the essence of the Council's concerns are clear. The Council's appeal statement contains sufficient detail and reasoning which substantiates the refusal reason and justifies its decision on the planning application. The Council's approval of other projecting/Juliet balconies elsewhere in the district is also neither determinative as to the acceptability of the appeal proposal nor indicative that the Council's consideration of it was inappropriate or unreasonable in this case.
4. The Council's officer report and appeal statement clearly set out the Council's consideration as to the use of the adjoining land and include reasons for coming to that view. Although the applicant may disagree with the Council's

stance on this matter, neither this nor the fact that the Council has not issued a lawful development certificate for the land in question mean that it acted unreasonably and failed to consider the available evidence and explain or justify its position on this matter. The evidence submitted with the appeal and the details provided in the numerous representations of interested parties did not lead me to find fault with the Council's position on the use of the adjoining area of land. I am satisfied that the Council's planning officer arrived at a reasoned position on this matter and that the Council's approach cannot be described as flawed or unreasonable. The Council's decision on the lawful use of a different site elsewhere in the district does also not lead me to a different conclusion.

5. The applicant raises various concerns in relation the Council's processing and determination of the planning application – including its changed decision making procedure due to Covid-19 – and the role and input of local councillors. It may be unfortunate that officers initially voiced support for the proposal prior to the Council formally determining the application, and the decision notice refusing permission no doubt came as a surprise to the applicant. However, the evidence before me does not indicate that the Council or its officers and members acted unreasonably when carrying out their roles and determining the planning application. The Council's refusal reason is also complete, precise, specific and relevant to the development proposed, details the alleged harm and the conflict with local and national planning policies, and is substantiated by the details set out in the Council's officer report and subsequent appeal statement. The Council's refusal of planning permission cannot therefore reasonably be described as unreasonably refusing permission by preventing or delaying development which should clearly be permitted.
6. Although I have come to a different conclusion to the Council and have allowed the appeal, this does not mean that it acted unreasonably in refusing the planning application. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

T Gethin

INSPECTOR