
Costs Decision

Site visit made on 11 March 2021

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

an Inspector appointed by the Secretary of State

Decision date: 25 March 2021

Costs application in relation to Appeal Ref: APP/D0840/D/20/3264676 Cove View, Riviere Towans, Phillack, Hayle TR27 5AF

- 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 Ian Lawson for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the construction of extension(s) and associated works.
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Decision

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

Reasons

2. 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.
3. 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, and vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis.
4. On the issue of whether the Council prevented or delayed development which should clearly be permitted, it will be seen from my decision that I agree with the Council in respect of the application of development plan policies related to the effect of the proposed development on the living conditions of nearby residents. Whilst I have also found that the appeal scheme would not have an adverse effect with regards to the character and appearance of the surrounding area, the harm identified which concerns the living conditions of residents is significant and outweighs the benefits that the scheme would provide. Given the conclusion on these issues, it follows that the Council has not prevented development that clearly should have been permitted. Consequently, I do not find that the Council have acted unreasonably in this regard.
5. On the issue of vague, generalised or inaccurate assertions about the proposal's impact, the Applicant has put it to me that the Council have attributed characteristics to the appeal site which, it is maintained, do not exist.

6. In this regard, I find that the information contained within the Officer's report to have been well constructed and comprehensive in terms of describing the area surrounding the appeal site. Whilst it will be seen from the appeal decision that there are examples of gardens close to the appeal site which contain domestic features and clutter, there are also examples where the garden land associated with nearby dwellings were predominately open and lacking in such features and clutter.
7. Matters such as character and appearance can be subjective and, in this case, the precise reasons for the Council's finding that the application would result in harm to the area's character and appearance are clearly set out in the Officer's report. Whilst I have come to a different conclusion to that of the Council with regards to the appeal scheme's impact on the character and appearance of the surrounding area, I have not identified inaccuracy or lack of objectivity in the Council's analysis of the proposal. Accordingly, I consider that the Council did not make vague, generalised or inaccurate assertions about the characteristics of the site nor the proposal's impact, and therefore did not act unreasonably in reaching its conclusion on the application.
8. 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, therefore, an award of costs is not justified.

A Spencer-Peet

INSPECTOR