
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: 12 April 2021

Costs application in relation to Appeal Ref: APP/D0840/W/20/3264429 Land north of Treeve Lane, Treeve Lane, Connor Downs, Hayle

- 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 Natasha Stevens for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the proposed change of use of field to a seasonal touring caravan and camping site, including caretaker/manager and reception unit 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: not determining similar cases in a consistent manner, failing to grant a further planning permission for a scheme that is the subject of an extant or recently expired permission where there has been no material change in circumstances and refusing planning permission on a planning ground capable of being dealt with by conditions.
4. In respect of determining similar cases in a consistent manner and in terms of failing to grant a further planning permission for a scheme that is the subject of a recently expired permission where there has been no material change in circumstances, the Applicant has drawn my attention to planning permission granted¹ by the Council in 2012 for a similar scheme at the appeal site (the Lapsed Permission).
5. In this regard, the Lapsed Permission was granted in 2012 and, consequently, could not be considered to be a 'recently expired permission'. In addition, while it is acknowledged that the Lapsed Permission was for a similar scheme, there have been significant and material changes to both national and local planning policy context within which developments are assessed and determined since the Lapsed Permission was considered and approved by the Council. In these respects, the Cornwall Local Plan Strategic Policies 2010-2030 was adopted in

¹ Local Planning Authority Reference: PA12/01195

2016 and the Gwinear-Gwithian Parish Neighbourhood Plan 2016-2030 was made in 2017 which replaced the policies of the development plan that existed as at the date the Lapsed Permission was approved by the Council. There have also been changes to national planning policy with regards the provisions of the National Planning Policy Framework which was revised in 2019.

6. Furthermore, while it is apparent that Council Officers did consider the planning history of the site including the Lapsed Permission, the appeal scheme was assessed and determined against the policies of the current development plan, setting out those reasons why the Council considered that the appeal scheme should, in their view, be refused. Whilst it will be seen from the appeal decision that I have disagreed with the Council with regards to the appeal scheme's accordance with the development plan, I do not find that the Council has acted unreasonably with regards failure to determining similar cases in a consistent manner and in terms of failing to grant a further planning permission for a scheme that is the subject of a recently expired permission where there has been no material change in circumstances.
7. Notwithstanding the above, the Applicant has also put it to me that the Council refused planning permission on planning grounds capable of being dealt with by conditions.
8. Matters such as the effect of a proposed development on the character and appearance of the area can be subjective. While I disagree with the Council's conclusions regards to the appeal proposals impact and agree that additional conditions should be applied in relation to landscaping and additional planting, I consider that a substantive and comprehensive case was made in that regard by the Council in its appeal statement.
9. In respect of the Council's reason for refusal on grounds of whether adequate arrangements were made for disposal of foul and surface water from the site, in responding to the Council's case the Applicant had to raise the issue that the Council had not had regard to drainage details submitted with the Lapsed Permission and that such matters could be controlled by conditions.
10. However, and as noted in the appeal decision, the Council has since indicated that the details provided, subject to the application of suitably worded conditions, satisfactorily addresses the matter and that the reason for refusal can be overcome by these means. Therefore, the situation has not resulted in any need for further assessment by the Applicant, or indeed anything beyond a short rebuttal on the Council's position in relation to this claim for costs. Given that the Applicant would have had to submit an appeal in relation to the other reasons for refusal given by the Council, I conclude that the Applicant has not been put to wasted or unnecessary expense in this regard.

Conclusions

11. In conclusion, I find that the Council has not acted unreasonably in the appeal process and the Applicant has not been put to unnecessary or wasted expense. Accordingly, an award of costs is not justified.

A Spencer-Peet

INSPECTOR