



Costs Decision

Hearing Held on 16 June 2021

Site visits made on 24 March 2021 and 17 June 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 July 2021

Costs application in relation to Appeal Ref: APP/D0840/W/20/3262550 Sheldon House Nursing Home, Sea View Road, Falmouth TR11 4EF

- 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 Cornwall Council for a full award of costs against Mr John Burgwin of Investin Sheldon Falmouth Developments Ltd.
 - The hearing was in connection with an appeal against the refusal of planning permission for demolition of the existing building and development of 34 residential apartments (Use Class C3) with external landscaping, access, car parking and associated works.
-

Decision

1. The application is refused.

Reasons

2. The 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 directly incur unnecessary expense in the appeal process. The Council asserts that the appellant has acted unreasonably in lodging the appeal without engaging with the Council to understand if the reason for refusal could be overcome, whilst also submitting simultaneously a revised scheme for the site.
3. The appellant could have engaged more with the Council prior to lodging the appeal and submitting a revised scheme. However, the appellant's actions must be considered within the context of the extensive and lengthy dialogue that has taken place regarding the site since 2019, which culminated in the support of the CDRP and a recommendation of approval on behalf of the Planning Officer.
4. When taking into account these circumstances, I do not consider that an accusation of unreasonable behaviour can fairly be levelled at the appellant who had a logical basis to conclude that there were sound grounds to make the appeal. Moreover, whilst not part of a formalised enquiry, the appellant did meet officers prior to submission of the appeal, where I understand it was interpreted that significant revisions to the scheme would be required. I also accept that waiting for the outcome of the revised scheme was not feasible, as timeframes may well have dictated that this became no longer an option.
5. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the PPG, has not been demonstrated. An award of costs is not justified.

Matthew Jones

INSPECTOR