
Costs Decision

Site visit made on 7 July 2021

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 09 August 2021

Costs application in relation to Appeal Ref: APP/D0840/W/21/3271269 Land Adj to Wenappa, Bassett Road, Voguebeloth, Illogan TR16 4EX

- 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 David Malt for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for construction of four dwellings & associated works.
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Decision

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

Reasons

2. The Planning Practice Guidance¹ (PPG) advises that, irrespective of the outcome of an 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.
3. The proposal received officer support when it was presented to the Council's West Sub-Area Planning Committee for determination. Elected members are of course entitled to take a contrary view to an officer recommendation and may be able to apply a greater level of local knowledge to the assessment of a proposal.
4. The elevated level of the site relative to the road means that it is visually prominent, and the dwellings proposed at the front of the site would be seen over the height of the existing hedge. The minutes of the Council meeting demonstrate that the extant permission for two dwellings at the site was taken into account, as was a previous proposal for eight dwellings. I do not find therefore that the Council failed to determine similar cases in a similar manner.
5. Furthermore, I am not satisfied that the views set out by the Council in the minutes of its meeting should be considered to constitute vague, generalised or inaccurate assertions about the proposal's impact. Although there was clearly some disagreement between elected members, and I reached a different conclusion in my assessment of the proposal, the comments noted were relevant and based on an adequate understanding of the characteristics of the site.

¹ Planning Practice Guidance Paragraph 030 Reference ID: 16-030-20140306

6. The applicant has referred to a recent appeal and costs decision relating to a nearby site². I have considered these, but the main issue of the appeal and costs application is quite different to the appeal before me. I am therefore not satisfied that these decisions should have a significant bearing on this decision.
7. I therefore find that unreasonable behaviour that prevented or delayed development that should clearly have been permitted, as described in the PPG, has not been demonstrated and an award of costs is not justified.

A Tucker

INSPECTOR

² APP/D0840/W/20/3263587