
Costs Decision

Site visit made on 26 July 2021

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

an Inspector appointed by the Secretary of State

Decision date: 13 August 2021

Costs application in relation to Appeal Ref: APP/D0840/W/21/3272675 Garages Opposite 1 Gloucester Place, Newlyn, Penzance TR18 5DR

- 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 T Partick for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the construction of dwelling house, duplex flat and parking facilities (Previously Approved PA19/07574).
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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. Parties in planning appeals and other planning proceedings normally meet their own expenses.
3. The PPG states that awards against local planning authorities may be either procedural, in respect of behaviour in relation to the appeal process, or substantive, which relates to the planning merits of the appeal. In this instance, the Applicant is seeking a full award of costs in relation to procedural matters. The PPG includes examples of unreasonable behaviour by planning authorities in relation to procedural matters. Amongst other things, this can include, "introducing fresh and substantial evidence at a late stage necessitating an adjournment, or extra expense for preparatory work that would not otherwise have arisen" and "prolonging the proceedings by introducing a new reason for refusal".
4. The Appellant has put it to me that the Council have acted unreasonably by introducing new material within their statement of case, relating to the effect of the appeal scheme on the living conditions of future residents, and which did not form part of the reasons for refusal as provided on the Council's decision notice.
5. The decision notice issued by the Council included a single reason for refusal which related to the impact of the proposal on the character and appearance of the surrounding area, and which specifically referred to the contention that the appeal scheme would be a cramped and contrived form of development. Whilst the Council's statement of case refers to the size of the external amenity areas at the proposed development, such reference is made in the context of the

comparative sizes of the garden areas within the surrounding area and which forms part of the established character and appearance of the area. This position is consistent with the details provided within the Council Officer's report.

6. In my view, the inclusion of this information was made in support of the Council's contention that the proposal would represent a cramped form of development when compared to its surroundings, and did not relate to the potential effect of the appeal scheme on the living conditions of future residents. Consequently, the information contained within the Council's statement of case comprises neither fresh nor substantial evidence, nor has the Council prolonged the proceedings by introducing a new reason for refusal. Accordingly, the circumstances that risk an award of costs on the grounds described above are not present in this instance.
7. In conclusion, I find that the unreasonable behaviour resulting in unnecessary or wasted expense, as described within the PPG, has not been demonstrated in this case and that, therefore, an award of costs is not justified.

Mr A Spencer-Peet

INSPECTOR