



Costs Decision

Site visit made on 8 June 2021

by C Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date:

Costs application in relation to Appeal Ref: APP/D0840/W/21/3267140 Land Adj to No 46, Gurnick Road, Newlyn TR18 5DG

- 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 Chris Burt for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of a dwellinghouse and a garage.
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Decision

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

Reasons

2. The appellant argues that the appeal proposal is not substantially different from the previously approved planning permission¹ and therefore should have clearly been permitted. However, the appeal proposal is of a different design to the approved scheme and would not have the same external appearance. Nor are the differences in design particularly subtle. Apart from having an additional storey on the east elevation, the appeal proposal would also feature significantly more glazing and a would have a different shape of roof. It seems to me that the two proposals do not bear close comparison and hence it was quite reasonable for the Council to assess the effects of appeal proposal independently of the approved scheme.
3. My attention has been drawn to an email from the Council to the appellant which is dated February 2019 and includes an attached drawing. This shows a floor plan broadly similar to the appeal proposal and the planning officer has amended the drawing to show what he thinks might be acceptable. However, this is informal advice about a different proposal and the officer makes it clear enough that he would have to first consult a local councillor. As such, this email cannot be said to represent the formal position of the Council at that time or to have implied the acceptability of the appeal proposal.
4. The reason for refusal cites harm to the 'rural character' of Tredavoe Lane, whereas in an Appeal Decision² for a different site in the lane, the Inspector describes the character of the area as 'mainly residential'. However, I do not necessarily see this as an indication that the Council has failed to appraise the effect of the proposal in an appropriate manner.

¹ Council Ref: PA18/06395.

² Appeal Decision: APP/D0840/D/17/3180759.

5. The main consideration in the context of the paragraph 049 of the PPG³ is whether the Council has produced evidence to substantiate its reason for refusal. In this respect, the officer report appraises the scheme in the context of surrounding development and the Council's Appeal Statement elaborates further (including an explanation in paragraph 5.4 of why this particular part of the lane is considered to have rural characteristics). Hence the Council has provided clear enough evidence to back up its reason for refusal.
6. I understand that it took nearly two years to gain planning permission for the approved dwelling and that other applications have remained undetermined by the Council (including another appeal that I have dealt with on the site). However, this does not indicate that the Council has behaved unreasonably in this particular case.
7. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated. This is not an example of the behaviour described in paragraph 049 of the PPG.

C Cresswell

INSPECTOR

³ Planning Practice Guidance, Ministry of Housing Communities & Local Government, November 2016.