
Costs Decision

Site visit made on 17 August 2021

by Mrs H Nicholls FdA MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 21 September 2021

Costs application in relation to Appeal Ref: APP/D0840/W/21/3274525 Bealswood, Cemetery Road, Albaston, PL18 9AJ

- 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 Chase Oak Homes for a partial award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for construction of five dwellings and extension to existing dwelling.
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Decision

1. The application for costs is refused.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The appellant indicates that the Council has behaved unreasonably by failing to provide evidence to justify the departure from its Officer's professional recommendation which was supportive of the scheme, at least on highways grounds, and has failed to provide such in support of the appeal. It is alleged that the Planning Committee Members had no other informed, expert-based opinion on which to base their decision, but that they were instead heavily influenced by local opposition.
4. The Council indicates that members of the Planning Committee are not bound to accept recommendations of their officers and that the appeal statement has been prepared that supplements the members' local knowledge and justifies the Council's decision.
5. The appeal scheme was recommended for refusal by the Council in light of the lack of information in respect of the potential impacts on the protected species; bats. The appeal application was refused on this basis, although a secondary reason for refusal was added in relation to the effects of the proposal on highway safety. The information in relation to bats was subsequently provided to supplement the appeal but it is clear the appeal could not have been entirely avoided in any case. As such, the Council have not prevented, inhibited or delayed development which could have been permitted.
6. In relation to the second reason for refusal, I agree that the members were not bound to accept the professional recommendation of the Highways Officers where a case could be made to the contrary. The reason for refusal is sufficiently clear and detailed about the anticipated impacts of the proposal

based on the local knowledge of how the road network presently operates. Whilst the Highways Officer indicates that the scheme, which would present a significant intervention on a short stretch of road, would not represent 'a significantly adverse impact on capacity/safety grounds', it is apparent that there would be a degree of impact. Whilst I have not agreed with the Council's ultimate decision in respect of this aspect, I accept that there would be a degree of inconvenience to drivers on Cemetery Road and the priorities of the road would materially alter as a result of the provision of the additional footway. Though there would be additional provision for pedestrians, there would be a number of other inconveniences to other road users. Though it may not lead to an unsafe situation as was anticipated by the Members in the Council's decisions, the reservations are understandable and a well-reasoned case has been made to support their views.

7. Consequently, the Council has not been unreasonable nor caused the appellant to incur unnecessary or wasted expense. For these reasons, and having regard to all other matters raised, a full or partial award of costs is therefore not justified.

Hollie Nicholls

INSPECTOR