



Costs Decision

Site Visit made on 13 January 2022

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2022

Costs application in relation to Appeal Ref: APP/D0840/D/21/3284856 Nilgiris, 6 Carrick Way, St Mawes TR2 5BB

- 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 Mark Philip-Sorensen for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for extensions and alterations to main house to provide an additional guest bedroom and a larger master bedroom, a new kitchen and a new entertainment room with a new stepped deck area to the front on the house facing South. New landscaping to form a parking area separate from the house. New landscaping including an outbuilding the rear of the property within the enclosed garden.
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1. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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. The applicant considers that the Council acted unreasonably by preventing development that should have been permitted, failing to produce accurate and consistent evidence to support its reason for refusal, making generalized and vague assertions about the impact of the proposal, misapplying relevant development plan policies and acting contrary to recent appeal decisions.
2. I have noted the recommendation of Council Officers in the Committee Report and the minutes of the Central Sub-Area Planning Committee meeting where the planning application was considered by Council Members. However, Members are not required to accept Officers' professional advice so long as a case can be made for the contrary view. Following the Committee's resolution to refuse the planning application, the Council issued its Decision Notice. That sets out the reason for refusal, which is complete, precise, specific and relevant to the development proposed, and details the alleged harm and the local planning policies that Members allege the proposal conflicts with.
3. The minutes of the Committee meeting, which refer to the Planning Officer's Committee Report, indicate that the merits of the development were discussed and various issues considered and debated. Although the minutes are somewhat brief in places, it is clear that Members discussed matters relevant to the reason for refusal, including for example the scale of the proposed development, the size of the site, and the character of the surrounding area and other dwellings in the locality. The minutes also indicate that Members were aware and took account of the development on the adjoining site that was allowed on appeal. Combined with the detail in the refusal reason, the Council's position on the harm that it alleges would arise is clear and, given that the

appeal was determined under the Household Appeals Service which does not allow for an appeal statement from the Council, is sufficiently substantiated in this case.

4. It has been put to me that some statements made by Members, such as in relation to the width of the development and remaining green space, are incorrect. However, the submitted evidence indicates that there would be built form/development of some form or another – including retaining walls, paving, the extended dwelling and the outbuilding – extending across almost the entire width of the site and the proposed development would reduce green space and the gaps to adjoining properties to some extent. Furthermore, given Policy HO9 of the Neighbourhood Development Plan 2015 - 2030 refers to, amongst other aspects, extensions being designed to be subsidiary in size, it seems to me that the policy was not misapplied and that Members' discussion of the compliance of the proposed development with the policy was not misdirected or extraneous.
5. Although I have come to a different overall conclusion to the Council and have allowed the appeal, this does not mean that it acted unreasonably in refusing the planning application and prevented development which should have reasonably been permitted. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. References in the submitted evidence to matters such as the address of the applicant, the planning history of the site and the costs award related to the appeal decision on the neighbouring site have not been determinative in my decision.

T Gethin

INSPECTOR