



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/21/3275394 Creek Bank, Road from Marble Head Cottage to The Old Barn, Restronguet Point, Feock TR3 6RB

- 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 D Shephard for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for Proposed First Floor Extension, External Alterations and Formation of a Vehicular Access.
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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 making vague and inaccurate assertions, unsupported by objective analysis, about the proposal's impact, and by failing to take into account the fallback position and the findings of the appeal decision for that scheme.
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 scope and merits of the development were discussed and various issues considered and debated. This includes several references to the fallback position (the extant scheme) and the related appeal decision. Differences between that scheme and the appeal proposal, and changes in circumstances between the date of the two proposals being determined were also identified.
4. It is clear that Members discussed matters relevant to the reason for refusal, including for example their view about the impact of the proposed development in-combination with the other flat-roof building just below the site and how the extant scheme would have a different effect due to its different shape and form. Combined with the detail in the refusal reason, the Council's position on the harm that it alleges would arise is sufficiently clear, neither particularly vague

nor inaccurate 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. While the applicant may disagree with the Council's position and its view on the extent of the proposal's effect on the AONB, this does not mean that it acted unreasonably in refusing planning permission. As the other schemes highlighted in the applicant's appeal submission are for different developments on different sites, it seems to me that the circumstances of each are sufficiently at variance to mean that it was reasonable for the Council to determine the proposal without specific reference to those various other developments.

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. For the above reasons, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

T Gethin

INSPECTOR