



Costs Decision

Site visit made on 14 April 2022

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2022

Costs application in relation to Appeal Ref: APP/D0840/W/21/3287991 Land North West of Lamara, Lancashire Lane, Rosudgeon, Penzance TR20 9PL

- 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 Penmellyn Ltd for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of permission in principle for proposed infill development up to 2 dwellings.
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Decision

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

Reasons

2. 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 failing to correctly apply relevant policy considerations, refusing the application despite guidance from the Case Officer that there were no valid planning reasons to do so and giving vague and inaccurate assertions about the proposal's impact. It is said that this has delayed development that should otherwise have been permitted.
3. I have noted the recommendation of Council Officers in the Planning Committee Report and the minutes of the West Sub-Area Planning Committee meeting where the application for permission in principle was considered by Council Members. The minutes of the meeting indicate that Members received a briefing on the proposal from Council Officers, who also answered Members' various questions. However, although Officers recommended that permission in principle be granted, Members are not required to accept Officers' professional advice so long as a case can be made for the contrary view.
4. In this instance, it is clear to me that there was sufficient information before the Planning Committee when they made their decision. The minutes demonstrate that the merits of the development were discussed and, with various issues – none of which appear to be particularly vague or inaccurate – considered and debated, it is clear that Members were cognisant of the evidence before them and the recommendation of Council Officers.
5. 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 relevant local and national planning policies that Members allege the proposal conflicts with. Although putting forward a contrary case to the Committee Report, the Council's appeal statement subsequently elaborates on the refusal reason and the Council's concerns with the appeal proposal, and includes sufficient detail to substantiate its position.

6. Despite the scope of the considerations for permission in principle being limited to location, land use and the amount of development permitted, the Council alleged that the proposed development would harm the landscape from any new vehicular access. However, it seems to me that the Council's concerns on this topic are sufficiently linked to the matter of the site's location. Accordingly, although I have come to a different view to the Council on this particular matter, the topic was not irrelevant or outside of the applicable parameters and it was not unreasonable for the Council to cover it as part of their determination of the application for permission in principle.
7. In dismissing the appeal, I have found that the appeal site is not suitable for residential development and that the proposal does not accord with various local planning policies and is contrary to the development plan as a whole. This indicates that it was not unreasonable for the Council to refuse permission and its decision thus neither prevented nor delayed development which should clearly have been permitted. The view put forward in the Committee Report that the application for permission in principle was acceptable and the consequent recommendation to grant permission does not lead me to a different conclusion.
8. For the above reasons, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

T Gethin

INSPECTOR