



Costs Decision

Site visit made on 19 April 2022

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2022

Costs application in relation to Appeal Ref: APP/D0840/W/21/3286581 15 St Annes Road, Newquay TR7 2SA

- 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 Ms Michelle Johns for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the demolition of existing garage and proposed dwelling.
-

Decision

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

Reasons

2. The Planning Practice Guidance (the Guidance) advises, regardless of the outcome, costs may be awarded against a party who has behaved unreasonably and caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant makes the case, in summary, that the Council has delayed development that should otherwise have been permitted, given its accordance with national and local policies, and also given the vague and inaccurate assertions about the proposal's impact. The application for a full award of costs is made with reference to the examples of unreasonable behaviour in the Guidance. It is argued that the Council has acted unreasonably through failing to give sufficient weight to the extant outline planning permission, the lack of viable alternatives, and through refusing the application despite clear guidance from the Case Officer that there were no valid planning reasons to refuse the scheme.
4. The applicant believes that the views of the Committee, in overturning the recommendation of the committee report, did not acknowledge the evidence provided to them, including taking on board professional advice. It is argued that had the Committee applied the correct assessment on the basis of the correct policies and advice from their professional officers, the outcome should have been different. In particular, the applicant believes that the extant outline permission is a clear demonstration that the construction of a dwelling on the appeal site is acceptable.
5. As a consequence, the applicant argues that the refusal was based on vague and inaccurate assertions. The case is made that the Committee Report is clear that the appeal proposal would not result in substantial harm, and would be of an appropriate scale and massing for the plot. Therefore, the appellant

- considers that the refusal of the appeal application against the advice of the professional officers has delayed sustainable development that should have been permitted in accordance with Development Plan policies and other relevant material considerations.
6. The Council has responded and believes that an award of costs is not merited and, in summary, including because Members of the planning committee are entitled to come to a different decision than officers of the Council.
 7. It is explained that the minutes of the committee meeting clearly state 'a full and detailed debate ensued' following the presentation of the proposed development and the Committee being addressed by supporters and objectors. The Council make the case that the evidence given clearly demonstrates that Members were fully aware of the nature of the proposed development, the characteristics of the area, the relevant policies and applied the policies correctly. It is put that the matters amplified in the Council's appeal statement demonstrate that the correct decision was to refuse the application.
 8. The Council also draw attention to the statement in the committee report that "the dwelling will increase housing densities and lead to a loss of open space to the detriment of the character of the area. This weighs against approval".
 9. Furthermore, the Council explain that the proposed scheme is not the subject of an extant or recently expired permission. It is explained that only access was considered under that outline application and matters such as appearance, landscaping, layout and scale were reserved for future consideration. In addition, the Council explain that an outline planning permission does not guarantee a subsequent reserved matters or full planning application will be successful. In view of the above, the Council argue that it has not prevented, inhibited or delayed development which could have reasonably been permitted and an award of costs is not justified.
 10. Examining all these matters, the committee is not bound to follow the recommendation of a committee report but the reason for refusal needs to be based on reasonable planning grounds and sufficient evidence provided to support that assessment. In this case, the reason for refusal focuses on the effect of the development on the character and appearance of the area, and does not raise other matters such as access or the principle of the development.
 11. The committee report was comprehensive and supportive of the proposal, but it did raise a concern that the scheme would lead to a loss of open space to the detriment of the character of the area. It is a matter of judgement as to the impact of the scheme on the character and appearance of the area and the reason for refusal identified concerns with the scheme that were clearly planning matters. The appeal statement from the Council was sufficiently detailed and raised relevant planning considerations to support the reason for refusal.
 12. While the background to the scheme is that the outline approval had permitted the principle of a single dwelling only access was agreed at that time. In making that decision the Council would have accepted that a dwelling, in principle, could be accommodated on the site but matters including scale, appearance and layout had not been agreed. There may be limited options for the layout and form of the development, but it is still a matter of judgement as

to whether such a subsequent scheme would be acceptable. Consequently, it was still open for the Council to find the details of the proposal unacceptable on grounds of its effect on the character and appearance of the area.

13. In this case, the scheme was presented as a full planning application and, having regard to the planning history and all other considerations, it will be seen from my decision, in the way that I have described, that the proposed dwelling would unacceptably harm the character and appearance of the area. Consequently, the decision of the Council to refuse the application was well founded. The Council has not refused development that should have been permitted or made vague or inaccurate assertions about the impact of the proposal.
14. As a result, it follows that in terms of the issues raised by the applicant in the costs claim, I cannot agree that the Council has acted unreasonably and the appeal could not have been avoided. Accordingly, the applicant was not put to unnecessary or wasted expense in the appeal process and neither a full nor a partial award of costs is merited.

Conclusion

15. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Guidance, has not been demonstrated and an award of costs is not justified.

David Wyborn

INSPECTOR