



Costs Decision

Site visit made on 20 April 2022

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 May 2022

Costs application in relation to Appeal Ref: APP/D0840/W/21/3289061 Land at Perrancoombe, Perranporth, Cornwall TR6 0JB

- 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 Mrs P Townsend and Mrs D Copus for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for an outline permission for new access and entrance road together with up to five detached dwellings.
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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 seeks a full award of costs. The basis of this, in summary, is that the Committee Report explained in detail why the scheme should be considered to be rounding off and this view was endorsed at the Committee Meeting by the advice of both the Planning Officer and the Development Manager Group Leader. While the applicant accepts that Committee Members are not obliged to accept the professional views of their officers, it is argued that this is a case where the failure or refusal to accept their views on rounding off is unreasonable, lacking in a rational justification or sound evidence and does not stand up to scrutiny.
4. Furthermore, it is argued that the Committee did not determine the outline application in a manner consistent with previous appeal decisions and the highlighted decisions are all similar because they required a consideration of whether the proposed development extended into open countryside.
5. Additionally, the case is made that the Council failed to produce any reasoning at the appeal to substantiate the reason for refusal and the refusal was based solely on vague and generalised assertions. The applicant argues that the Council's landscape and visual impact issues had no reasonable basis, as the Landscape Assessment demonstrates.
6. It is put by the applicant that only two of the nine councillors sitting on the Planning Committee could be said to have local knowledge and it appears that only one had visited the site. However, the Planning Officer had visited and

inspected the site, had in depth knowledge of the locality and this led to the recommendation. This concurred with the views of the applicants' advisers including the landscape architect and the divergence of views between qualified and experienced professionals and lay people cannot be a reasonable basis for refusal.

7. As a consequence, the applicant argues that the refusal of the application has delayed development which should clearly be permitted, having regard to its accordance with the Development Plan, National Policy and other material considerations. Accordingly, it is said by the applicant that if the Council had not acted unreasonably, permission should have been granted and the costs of appealing would not have been incurred.
8. The Council has set out in writing why it considers it has acted reasonably. Furthermore, it is said that Committee Members are entitled to come to their views and that the reason for refusal is based on relevant, clear and precise planning issues. As a consequence, it is explained that the Council has not prevented, inhibited or delayed development which could reasonably have been permitted and that the correct decision was to refuse the application.
9. Examining these matters, I appreciate that the proposal received positive pre-application advice and that the Committee Report explains in detail why it is considered that the scheme is policy compliant. However, the determination of whether a scheme forms rounding off and therefore whether it could accord with the requirements of Policy 3 of the Cornwall Local Plan Strategic Policies 2010-2030 is a matter of judgement. The Committee Members are not duty bound to follow the recommendation of the report and it appears that there was considerable discussion on the merits of the proposal at the meeting. The reason for refusal was confined to material planning matters and supported by development plan policies. The appeal submissions provide sufficient evidence to support the reason for refusal.
10. The comments regarding the consistency with the other appeal decisions are noted. However, the circumstances of each case will differ and the main issue in this appeal is a matter of judgement to be assessed on a case by case basis. It will be seen in my decision that I attach limited weight to these other decisions in deciding the merits of the present scheme and therefore the approach of the Council in this respect was not unreasonable.
11. Indeed, it will be seen from the decision, following my assessment at the site visit, that the characteristics of the site and the surroundings are such that I conclude that the scheme would not meet with the requirements of rounding off and the scheme would not be policy compliant. Accordingly, I have found that the reason for refusal was well founded and that this is not a case where development has been prevented, inhibited or delayed which could reasonably have been permitted.
12. 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 partial nor full award of costs is merited.

Conclusion

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

David Wyborn

INSPECTOR