
Costs Decision

Site visit made on 16 August 2022

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 27 September 2022

Costs application in relation to Appeal Ref: APP/D0840/W/22/3290276 Little Inside Farm, Penpol, Feock, Truro TR3 6RU

- 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 T Vigus for a partial award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the formation of three holiday pods.
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Decision

1. The application for a partial award of costs is refused.

Reasons

2. Planning Practice Guidance (the PPG) advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The PPG states that awards against local planning authorities may be either procedural, in respect of behaviour in relation to the appeal process, or substantive, which relates to the planning merits of the appeal. In this instance, the Applicant is seeking a partial award of costs in relation to substantive matters.
4. The PPG includes examples of unreasonable behaviour by planning authorities that may give rise to a substantive award of costs. Amongst other things, this can include, "preventing or delaying development which should clearly be permitted having regard to its accordance with the development plan national policy and any other material considerations", "vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis" and "failure to produce evidence to substantiate each reason for refusal on appeal".
5. The submissions confirm that the Council decided to refuse the application contrary to the initial advice of their professional officers. Whilst Local Planning Authorities are not bound to accept the recommendations of their officers, as noted above the PPG provides that Councils are at risk of an award of costs if they prevent or delay development which should clearly be permitted.
6. In the first instance, the Applicant has put it to me that the Council has acted unreasonably in relation to applying housing policies in respect of the appeal scheme. However, it will be seen from the appeal decision that such an

approach is correct, and, given that the proposed accommodation would exhibit the characteristics of a dwellinghouse, assessment against housing policies is required. Nonetheless, as noted in the appeal decision the appeal scheme must be assessed against the policies of the development plan when taken as a whole. In that regard, the Council have assessed the proposed development in respect of housing policies as well as in respect of specific business and tourism policies and has given clear reasons why, in the Council's assessment, the scheme would conflict with the development plan when taken as a whole. I therefore find that the Council has not acted unreasonably in that regard.

7. The Applicant has further put it to me that the Council has acted unreasonably in respect of inclusion of wording in the decision notice to the effect that the proposed scheme would represent unsustainable new residential development for which no special justification has been adequately demonstrated. In that regard it is noted that within Policy 7 of the Cornwall Local Plan Strategic Policies (2010-2030) (the Local Plan) exceptions to the restrictions placed on development within the open countryside can be provided subject to certain special circumstances, such as where the accommodation is for rural workers.
8. As above, the Council statement of case has clearly assessed the proposal against the relevant policies of the development plan, and has provided clear submissions within their statement of case as to why none of the special circumstances included within Policy 7 of the Local Plan apply to the scheme. The Council has therefore not failed to substantiate its reason for refusal nor has provided vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis. I therefore do not find that the Council has acted unreasonably in that regard.
9. In addition to the above, and in respect of vague, generalised or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, I find that the information contained within the officer's report and Council statement of case was comprehensive with regards to describing the area surrounding the appeal site which, as confirmed in the appeal decision, is located within the open countryside for planning purposes. The evidence before me indicates that issues concerning impact on the character and appearance of the surrounding area were of concern to Council members and I find that the Council's statement of case provides clear reason as to why the Council considered that the development would be harmful in that respect. I therefore do not find that the Council has acted unreasonably in that regard.
10. Whilst it will be seen from the appeal decision that I have refused the appeal on grounds concerning ecological impacts of the proposed scheme, for the above reasons I conclude that it has not been demonstrated that the Council behaved unreasonably in respect of substantive matters which caused the Applicant to incur unnecessary or wasted expense in the appeal process, as described in the PPG. Therefore, an award of costs is not justified.

A Spencer-Peet

INSPECTOR