



Costs Decision

Site visit made on 19 July 2022

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2022

Costs application in relation to Appeal Ref: APP/D0840/W/21/3289698 1 and 2 Sea View Cottages, Oates Road, Marazion, Cornwall, TR17 0AN

- 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 and Mrs John and Jo Gentle for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the change of use from 2 dwellings in to 1 single dwelling, construction of single storey extension with roof terrace, insertion of conservation rooflights, construction of external garden wall and gate to North, removal of hard paved area surface to form soft planted area.
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Decision

1. The application is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that 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 PPG provides that Local Planning Authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, or by 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.
3. The applicant's case includes that the Council did not properly consider the benefits of the proposal, particularly in relation to providing suitable accommodation for a disabled person. The Council in their judgement considered that the proposed extension would be harmful to the heritage assets. They did consider whether the benefits of the proposal would outweigh this harm, but did not conclude that it did. This was partly due to the Council considering that there were alternatives which did not have a harmful impact. As can be seen from the appeal decision I have come to a different conclusion, but the Council's approach was not, in my view, unreasonable. Their deliberations were clearly set out and all main material matters taking into consideration (including the 'fallback position') with a balanced judgement made against planning policy.
4. Regarding the heritage impacts, I would agree that the cottages were non-designated heritage assets. They are also within the Conservation Area. From the evidence I do not consider that the conclusions regarding heritage asset

impacts were exaggerated, inaccurate or unreasonable. They were explained in detail and concluded against planning policy.

5. The site is within the area of outstanding natural beauty (AONB) but any potential impact to this designation was not included within the Council reasons for refusal. As such, it was not a main issue with the appeal and it did not seem likely that this matter would have led to the appeal being necessary if this was the only issue. It was reasonable for the matter to be addressed though, given the importance of the AONB designation.
6. The issue relating to neighbour impact from the proposed terrace was set out with the Council report. Though not in great detail it was clear what the issue of concern was, and the issue was assessed against planning policy. Again, I have concluded that with a terrace screening condition this was not a reason to dismiss the appeal, but I would not consider it unreasonable for the Council to conclude otherwise, being that even with a condition the neighbour amenity impact would be unacceptable. This is a matter of judgement and other cases in the area are likely to have different circumstances to some degree. Therefore, in considering the case on its merits the Council conclusions were not unreasonable in terms of inconsistency.
7. It is acknowledged that there appeared to be some delays with the planning application process and a lack of communication between parties, but I do not consider it likely that these matters resulted in the necessity for the appeal. Likewise, the case was not straightforward and though the appeal has been allowed the Council in their approach and conclusions were not examples of unreasonable behaviour.
8. Therefore, for the reasons set out above, I find that there has not been unreasonable behaviour which has caused unnecessary expense in this instance and the application for costs is refused.

Mr S Rennie

INSPECTOR