
Costs Decision

Site visit made on 4 October 2022

by Tom Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 11 November 2022

Costs application in relation to Appeal Ref: APP/D0840/W/22/3299245 Land South West of Little Skewjack, St. Levan, Penzance TR19 6NB

- The application is made under the Town and Country Planning Act 1990 as amended, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5) as amended.
 - The application is made by Mr & Mrs Tanner for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of Cornwall Council to grant planning permission in respect of application Ref PA21/11119 for the erection of 5 glamping cabins, car port and storage room, with associated amenity space.
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Decision

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

Reasons

2. Parties to planning appeals normally meet their own expenses. However the Planning Practice Guidance ('PPG') explains how costs may be awarded against a party who has behaved unreasonably, and thereby directly caused another party to incur unnecessary expense at appeal.¹ Although costs applications may relate to events before an appeal is made, an award cannot extend to costs incurred beforehand.²
3. Procedurally, the appellants argue that the Council were unduly dilatory in determining application Ref PA21/11119, and that the Council failed to engage with them in a positive way (despite the appellants' repeated attempts). Substantively, and somewhat linked, the appellants contend that the application should have been permitted,³ and that more constructive engagement at application stage would 'more than likely have resulted in an alternative outcome.'
4. I accept that the application could have been dealt with more expediently, and that a quicker response could have been given to the appellants' enquiries. However those points hold true of many applications; everything could always be dealt with more efficiently. The Council have explained how delays resulted, in large part, from sourcing views from third parties, the determination period falling over the Christmas period, and as a result of considering and escalating matters raised by the appellant. Delays may occur for a variety of understandable or unforeseeable reasons, as is the case in this instance, rather

¹ Reference ID: 16-028-20140306.

² PPG Reference ID: 16-032-20140306.

³ PPG Reference ID: 16-049-20140306.

than by virtue of unreasonable behaviour. Many Councils presently struggle to issue timely decisions; to justify an award of costs on that basis alone would achieve nothing significant in terms of the purpose for which the costs regime exists.⁴

5. For the reasons given in the associated appeal decision, logically I cannot agree that the proposal should have been permitted. Even if I am wrong in my assessment of the scheme, there is evidently an arguable point of planning judgement. The acceptability of the proposal is not clear cut.
6. The Council have, moreover, supported their case at appeal with relevant and accurate observations of the site and its surroundings. They have actively tussled with the application of relevant development plan policies and elements of the National Planning Policy Framework (alongside addressing the benefits of the scheme). In various instances, whilst the appellant suggests that the Council have ignored certain points, it appears instead based on all the evidence before me that the Council reached a different judgement on the merits of the scheme to the appellant, founded on appropriate reasoning. I cannot therefore agree with the appellant that more constructive engagement at application stage would likely have resulted in a different outcome.
7. On account of the foregoing reasons, although I understand the appellants' motivation, based on the evidence before me I find that no action or inaction taken by the Council amounts to unreasonable behaviour directly resulting in unnecessary or wasted expense at appeal.

Conclusion

8. Having taken account of all other matters raised, and with regard to relevant elements of the PPG, for the above reasons I conclude that an award of costs is not justified in this instance.

Tom Bristow

INSPECTOR

⁴ PPG Reference ID: 16-028-20140306 explains that one aim of the costs regime is to 'encourage all those involved in the appeal process to behave in a reasonable way...'