
Costs Decision

Site visit made on 6 December 2022

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 13 December 2022

Costs application in relation to Appeal Ref: APP/D0840/W/22/3292190 Builder's Yard, The Mount, Par, PL24 2BY

- 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 Pamela Church for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of outline planning permission for erection of dwelling.
-

Decision

1. The application for an award of costs 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.
3. With regard to the suggestion that the Council was wrong to state that the site was L-shaped, the Council is of the view that the part of the site that could be developed to allow access to be maintained to neighbouring dwellings is L-shaped. Whilst the wider red line area would contribute to the use of the site by providing access to a dwelling or access to a parking area, it is clear that only an L-shaped portion of the site is available for a building. I am therefore satisfied that the position adopted by the Council in respect of this matter was not a false statement.
4. The matters relating to the submission of additional information in the form of an indicative plan, and whether all matters should be reserved have had no bearing on the appeal process. The applicant chose to submit details of an indicative scheme to support her case as part of the appeal process, but the Council determined the application based on the information before it at the time, and a lack of detail did not form a part of any of the refusal reasons.
5. The Council refers to the lawful status of the existing building within its Officer Report by using the term 'abandoned'. However, this appears to only be relevant to the Council so far as to take into account the benefits of removing the building. Beyond this, the lawful status of the existing building is not a matter upon which the Council appears to place weight and therefore the lawful use of the site seems to have little relevance to the merits of the appeal proposal.

6. The applicant submits that the Council failed to be proactive during the application process by giving no opportunity to engage in matters such as the view that the site is too small for the development proposed. This is however a matter that solely relates to the Council's conduct before it made its decision.
7. The applicant suggests that policies that the Council refers to in support of a refusal on the grounds of cramped conditions, noise and disturbance are quoted in other cases where it has granted permission. Evidence before me demonstrates that the Council considered such matters as specific to the submission and characteristics of the site, demonstrating that it assessed the proposal on its own merits. In any case, I have found in my appeal decision that the site could accommodate a dwelling that would secure acceptable living conditions for its future occupants and would not harm the living conditions of those living nearby.
8. All of the matters above relate to the Council's behaviour before the appeal was made. The PPG¹ advises that costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage, although the behaviour and actions at the time of the planning application can be taken into account.
9. There is no evidence before me to suggest that the Council behaved unreasonably during the appeal process, and this is not specifically suggested in the applicant's submissions. Even if I take into account the Council's behaviour and actions at the time of the planning application, these matters of disagreement do not lead me to conclude that the Council's behaviour during the appeal process has been unreasonable or resulted in unnecessary or wasted expense. The application for an award of costs should therefore be refused.

A Tucker

INSPECTOR

¹ Planning Practice Guidance Paragraph 033 Reference ID: 16-033-20140306