
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: 16 December 2022

Costs application in relation to Appeal Ref: APP/D0840/W/22/3294102 70 Lostwithiel Street, Fowey, PL23 1BQ

- 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 Malcolm Widger for a full award of costs against Cornwall Council.
 - The appeal was against the grant subject to conditions of planning permission for change of use from C1 (dwelling and B&B) back to C3 (dwelling).
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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. Such costs can only be awarded in relation to unnecessary or wasted expense at the appeal stage.
3. The applicant submits that he has incurred a financial loss that includes losing the house sale and resuming the business, as well as emotional stress and mental anguish, all as a result of the condition imposed by the Council. He also suggests that the Fowey Neighbourhood Plan 2020-2030 was not prepared in an open or transparent manner.
4. None of these matters relate to the Council's behaviour at the appeal stage, and the applicant does not specifically refer to any unreasonable behaviour encountered during the appeal. The matters raised by the applicant do not fall under any of the examples set out in the PPG¹. This includes the situation whereby a Council has imposed a condition that does not meet the tests set out in the National Planning Policy Framework (the Framework). I have however found in my decision that the condition covered a necessary matter, and once amended, fully met the tests set out in the Framework.
5. For the reasons above, the application for an award of costs should be refused.

A Tucker

INSPECTOR

¹ Paragraph: 047 Reference ID: 16-047-20140306 and Paragraph: 049 Reference ID: 16-049-20140306