
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 Cornwall Council for a full award of costs against Mr Malcolm Widger.
 - 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.
3. The Council submits that it incurred unnecessary and wasted expense through the administration and submission of appeal documentation. The Council references the PPG which states that parties who pursue an appeal unreasonably without sound grounds for appeal may have an award of costs made against them¹. It further references the PPG where it states that an appellant is at risk of an award of costs being made against them if the appeal has no reasonable prospect of succeeding, which may occur when the development is clearly not in accordance with the development plan².
4. In my decision I did however acknowledge the discrepancy between the wording of Policy 5 of the Fowey Parish Neighbourhood Development Plan 2019-2030 and the preceding text set out at paragraph 9.28. On this basis I am satisfied that the appellant did not pursue the appeal unreasonably.
5. For the reasons above, the application for an award of costs should be refused.

A Tucker

INSPECTOR

¹ Paragraph: 001 Reference ID: 16-001-20140306

² Paragraph: 053 Reference ID: 16-053-20140306