
Costs Decision

Site visit made on 7 February 2023

by Paul Griffiths BSc(Hons) BArch IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 March 2023

Costs application in relation to Appeal Ref: APP/D0840/W/22/3301811 Land North of Nanturras Way, Goldsithney TR20 9DG

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr M Moth for a full award of costs against Cornwall Council.
 - The appeal was in connection with the refusal of planning permission for the change of use of land to campsite and the erection of one ablutions block.
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Decision

1. The application for a full award of costs is refused.

Reasons

2. Planning Practice Guidance (PPG) tells us that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs. Examples of unreasonable behaviour by a local planning authority that may lead to a substantive award of costs include not determining similar cases in a consistent manner; and refusing planning permission on a planning ground capable of being dealt with by conditions.
3. The proposal at issue in the appeal followed an earlier refusal of planning permission for a broadly similar proposal on the site (PA19/09326). That proposal was refused for two reasons. The first related to the impact of the reception building then proposed, and the car parking area, on established trees, while the second related to the failure to provide a safe and suitable vehicular access.
4. The appellant sought to address those matters in a revised scheme only for the Council to refuse planning permission as a result of the impact of the proposal on the landscape character of the area. The appellant suggests that it is unreasonable of the Council to have raised an 'in principle' objection to the second application, when it raised no such objection the first time around.
5. As the Council points out, the second scheme was quite different to the first – the proposed reception/shop/café building was removed; the parking area was relocated; an updated Arboricultural Method Statement was submitted; and there was an updated Highway Statement too. However, it is clear that these changes were a direct response to the reasons behind the refusal of the first application and were an attempt to lessen the impact of the proposal on the trees which are an important characteristic of the site, and to show that the proposal need cause no difficulties in highway safety terms.

6. It does not assist the Council to suggest that the schemes were very different, and the second proposal had to be considered anew. The schemes are different but it is plain that the second scheme would have much less of a landscape impact on account of the removal of a substantial building from it, and the relocation of the parking area, thereby safeguarding important trees.
7. The second line of response raised by the Council has more traction in my view. The first application was dealt with by Officers under their delegated powers and was not placed before Members. The second application was recommended for approval by Officers and placed before Council Members for a decision. As the reason for refusal testifies, Council Members were exercised by the harmful landscape impact of the proposal, particularly in winter.
8. I appreciate that the seasonal issue could have been addressed by a condition limiting the use of the site in that time of the year, but it seems to me that Council Members' difficulty with the proposal was not confined to that period. The reason for refusal refers to the erosion of rural character *particularly* in the winter months (my emphasis). I take from that that Council Members' objection was a fundamental one.
9. When the proposal at issue was placed before Council Members, for the first time, Officers had recommended that planning permission be granted, subject to conditions. It is well established that Council Members do not need to follow the advice of Officers but if they do not, then they need to provide cogent evidence to underpin their position rather than make vague, generalised or inaccurate assertions about a proposal's impact, that is unsupported by objective analysis.
10. As I have set out in my parallel appeal decision, a proposal like that at issue involves a balanced judgment between economic benefits and landscape impact. In my judgment, the economic benefits are of a strength that outweighs the landscape impact and I have allowed the appeal on that basis. Nevertheless, the Council was able to provide evidence to explain the position adopted. While I have disagreed with them, I do not consider that Council Members were unreasonable in the judgment they formed.
11. Bringing all those points together, unreasonable behaviour that has directly caused another party to incur unnecessary or wasted expense in the appeals process has not been demonstrated. I see no justification for an award of costs against the Council.

Paul Griffiths

INSPECTOR