



Costs Decision

Site visit made on 28 February 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Costs application in relation to Appeal Ref: APP/D0840/W/22/3303580 Long Acre, Binnerton Road, Leedstown, Hayle, Cornwall TR27 6BJ.

- 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 David Hadwin for a partial award of costs against Cornwall Council
 - The appeal was against the refusal of permission in principle for the erection of a 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 parties in planning appeals are normally expected to meet their own expenses. Irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby causes the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG gives examples of unreasonable behaviour by local planning authorities including refusing planning permission on a planning ground capable of being dealt with by conditions, where it is concluded that suitable conditions would enable the proposed development to go ahead. The appeal the subject to this cost application relates to an application for 'permission in principle' as opposed to planning permission as given as an example within the PPG.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. The PPG indicates that it is not possible to impose planning conditions within the grant of permission in principle as the terms of any permission in principle must only include site location, type of development and amount.
5. However, the applicant claims that they have incurred unnecessary expense in having to defend a reason for refusal on highways grounds, when there is no reason why this detail would need to be provided at the 'permission in principle' stage. Furthermore, the applicant states that the Council failed to consider the existing highway conditions and have made an assumption that a footway is a mandatory requirement.

6. The applicant points to a consultation response from the Council's Highways Officer. This consultation response notes that given the intensification of the access a dedicated footway should be provided and highway verge is available.
7. The Council, within their officer report reference an appeal decision¹ to support their view that the provision of a footway for future occupiers of the proposed development would be a fundamental element of the scheme to address highway concerns, and would therefore need to be addressed at this stage to ensure that it would be delivered to an acceptable specification.
8. It is reasonable for safe and suitable access to fall within considerations of location and therefore the remit of permission in principle. It will be seen from my decision that I agree with the Council that a footway would be required. Furthermore, acknowledging the Highways Officer noted that highway verge was available, the Council was entitled to conclude that on the information before them at the time, the deliverability of the footway to an acceptable specification was in question, without which, the principle of the development in this location was also in question. This is a matter of planning judgement.
9. Although I have come to a differing conclusion to the Council in my decision, additional information arose principally at appeal stage in the form of the appellant's Highway Statement of Case, which included an indicative plan of how a footway may be delivered, and could be secured at technical details consent stage.
10. Given that it is not possible to impose conditions within the grant of permission in principle, and the information to hand at that time, it was reasonable for the Council to conclude that lack of footway provision was a fundamental consideration at this stage, and could not be left until technical details consent stage.
11. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

12. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

S Harrington

INSPECTOR

¹ APP/K1128/W/18/3216796