



Costs Decision

Site visit made on 27 June 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2023

Costs application in relation to Appeal Ref: APP/D0840/W/22/3308876 Land east of Meneth, Bonallack Lane, Gweek, Cornwall, TR12 6UJ

- 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 MJL Developments (Cornwall) Ltd for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for residential development of eleven dwellings (7 affordable and 4 open market).
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, 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. PPG includes examples of unreasonable behaviour by planning authorities that may lead to a substantive award of costs. Amongst other things, this can include, "preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations" and "not determining similar cases in a consistent manner".
4. The applicant contends that the Council has behaved unreasonably due to it not determining similar cases in a consistent manner; preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; and, ignoring policies of the development plan and having concocted a reason for refusal despite the officer recommendation, without visiting the site. The Council refutes each of these claims.
5. The Council's Appeal Statement explains in some detail why the proposal was deemed to cause harm to the character and appearance of the landscape, including Cornwall Area of Outstanding Natural Beauty (AONB). The effect of the proposal on the character and appearance of the landscape and AONB requires a degree of planning judgement. The Council has explained why this application was determined as it was having regard to development plan policies and having taken into account previous decisions, including dismissed appeals relating to the appeal site, as well as having regard to the public benefits of the scheme.

6. The Council has therefore substantiated its position at appeal in relation to the proposal and its actions did not prevent or delay development which should have clearly been permitted.
7. There is little evidence that the Councillors were not familiar with the site and surroundings, and the decision not to defer for a site visit is a judgment the Committee was entitled to make. It is stated that several opposing views were expressed, and therefore I find nothing untoward in the planning officer having previously drafted a potential reason for refusal or in providing assistance to the Councillors in crystallising the reason for refusal.
8. Although I am aware of a scheme for housing on the adjacent land, that was for a much smaller scheme of housing development making comparison difficult. Hence, this is not an obvious example of a local planning authority being inconsistent in its approach to similar cases, or delaying development which should have clearly been permitted.
9. It follows that the Council did not act unreasonably with regard to consistency in decision-making. PPG advises that, where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs.
10. For the reasons given, I find that unreasonable behaviour, resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated and that, therefore, an award of costs is not justified.

J White

INSPECTOR