



Costs Decision

Site visit made on 1 September 2023

by C Cresswell BSc (Hons), MA, MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2023

Costs application in relation to Appeal Ref: APP/D0840/W/23/3318311 Land West of Pengerise, Germoe, TR20 9AA

- 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 A Ballard for a partial award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for construction of dwelling house & associated works.
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Decision

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

Reasons

2. The second reason for refusal listed on the Council's Decision Notice says that the site is within a Special Area of Conservation (SAC). However, as the appellant points out in his Appeal Statement, the site is actually situated outside the boundaries of the SAC. This mistake is accepted by the Council in its own Appeal Statement. It is also made clear that the Council wishes to withdraw the second reason for refusal.
3. The PPG¹ says 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. In this case, it is not particularly clear from the appellant's evidence how the Council's error led to wasted expense in the appeal process. Beyond showing a map that confirmed the location of the site outside the SAC, no substantive evidence was provided by either party in relation the second reason for refusal.
4. The Council acknowledged its mistake at the earliest opportunity and did not attempt to defend its position once the facts had become clear. It seems to me that this was a reasonable approach to correcting what was a relatively minor error in the planning process. The appeal would not have been avoided as the Council relied on its first reason for refusal.
5. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

C Cresswell

INSPECTOR

¹ National Planning Practice Guidance