
Costs Decision

Site visit made on 21 August 2023

by Alison Fish DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 December 2023

Costs application in relation to Appeal Ref: APP/D0840/W/22/3309211 Trenisson Farm, Portloe, Cornwall TR2 5PL

- 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 R Rimmington for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for 'The replacement of an approved conversion of a former snooker hall with a new single dwelling'.
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Decision

1. The application for a full 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 where a party has acted unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. The PPG advises that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Paragraph 049¹ of the PPG sets out examples of these.
3. In summary, the applicant considers those relevant here are 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; vague, generalised or inaccurate assertions about a proposals impact, which are unsupported by any objective analysis; and not determining similar cases in a consistent manner.
4. On the first issue, planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise². The weight to be ascribed to material considerations is a matter for the decision maker³.
5. The applicant contends that the Council did not give sufficient weight to the fall-back position, local support for the proposal and the stated benefits of the scheme which includes its sustainability features and the ability to provide a work from home space. In so doing, the applicant contends that the Council prevented development which should clearly have been permitted.

¹ Paragraph: 049 Reference ID: 16-049-20140306

² Section 38(6) of the Town and Country Planning Act 1990

³ Paragraph: 009 Reference ID: 21b-009-20140306 of the Planning Practice Guidance

6. It is clear from the Council's submissions that given the planning history of the site, they did not have an objection to the principle of a new dwelling on the appeal site. Indeed, the Officer Report acknowledges that a modest increase in scale over the approved scheme may also be acceptable and the Council's Statement of Case refers to the addition of a conservatory under permitted development rights (PD) to the extant permission. This indicates to me that the Council considered that the fall-back position together with the PD addition was a material consideration.
7. It is also clear that they afforded great weight to conserving and enhancing the landscape and scenic beauty of the Area of Outstanding Natural Beauty (AONB) as set out in Paragraph 176 of the National Planning Policy Framework. However, the Council's Officer Report does not address all the benefits of the scheme as advanced by the applicant. Similarly, it does not address the weight to be attached to those benefits or the fall-back position in the decision-making process. Therefore, I must conclude that the stated benefits were simply ignored or disregarded by the Council and that this amounts to unreasonable behaviour.
8. Having said that, the Council's Statement of Case addresses some of the benefits advanced by the applicant and the Council gave them no more than limited weight. From everything I have seen and read, I am not persuaded that the Council would have concluded differently on the application even if it had set out all the benefits and ascribed weight to each one. I say this in light of the case for the Council and my own findings. In respect of this first issue, whilst I have found that the Council acted unreasonably, I am not persuaded that this would have prevented the need for an appeal. I am not therefore persuaded that the applicant has been put to unnecessary or wasted expense in the appeal process in relation to this.
9. On the second issue, the applicant asserts that the reason for refusal was not clear or supported by objective analysis and that the Council misunderstood how the proposal related to the local rural vernacular. However, both the Council's Officer Report and Statement of Case set out why the Council found the proposal to be unacceptable in terms of its scale, form, design, curtilage size and associated boundary treatments. In doing so, they clearly refer to the Cornwall and Isles of Scilly Landscape Character Study, the Local Landscape Character Assessment for the Roseland and the Cornwall Area of Outstanding Natural Beauty Management Plan 2022-2027 in some detail. These documents contain a structured and rigorous assessment of the local landscape to provide a factual basis which defines landscape characteristics. Given my own findings on this point, it follows that I am satisfied that the Council has shown it has understood the proposal and undertaken an objective analysis of the appeal proposals impact.
10. With regards to the final point, the applicant asserts that the Council have permitted much larger dwellings and those of a similar design to the appeal proposal in different locations elsewhere. Various examples of Council decisions and appeal decisions were submitted by the applicant as part of their planning application and appeal submissions. By refusing to grant planning permission, the applicant asserts that the Council did not take proper account of those decisions or demonstrate consistency in decision making.

11. However, from the limited information available, I found that I was unable to draw direct comparisons between the circumstances surrounding those decisions and the circumstances relating to the appeal site. As such, I do not find that failure to demonstrate consistency in the decision making process has been demonstrated.
12. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award of costs is therefore not justified.

Alison Fish

INSPECTOR