



Costs Decision

Site visit made on 29 April 2024

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State

Decision date: 3 June 2024

**Costs application in relation to Appeal Ref: APP/D0840/C/22/3313376
Trebarvah Woon Farm, Trebarvah Woon, Constantine, FALMOUTH,
Cornwall, TR11 5QJ**

- The application is made under the Town and Country Planning Act 1990, sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Cornwall Council for a partial award of costs against Mr James Brittain-Long.
 - The appeal was against an enforcement notice alleging the material change of use of land to residential use involving a caravan.
-

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. The PPG also advises that in enforcement appeals, it is sometimes made plain by a recent appeal decision relating to the same (or very similar) development on the same site that the development should not be allowed. The Appellant is then at risk of an award of costs if they persist with an appeal against an Enforcement Notice on the ground that planning permission ought to be granted for the development in question.
3. The Council seeks a partial award of costs, relating to the expense it incurred dealing with the Appellant's representations on the appeal on ground (a). The Council contends that the Appellant behaved unreasonably in pursuing an appeal on ground (a), because an appeal against the Council's refusal to grant planning permission for the development had recently been upheld. The Council also contends that the Appellant behaved unreasonably in proposing a Landscaping Scheme and the relocation of the caravan, since these proposals had not been the subject of prior discussion with the Council and should, the Council says, have been the subject of a separate planning application.
4. The appeal against the Council's refusal to grant planning permission for the use of the mobile home to provide short term holiday accommodation was dismissed on 12 July 2021.¹ The Inspector who determined that appeal concluded that the proposal would be harmful to the rural character and appearance of the surrounding area. This conclusion was informed by his observations that there was an absence of measures to sufficiently screen the site from public views, and that the caravan occupied a somewhat isolated

¹ Ref APP/D0840/W/21/3269390

position away from the group of buildings which comprise Trebarvah Woon Farm. He noted that no landscaping scheme had been submitted in support of that appeal.

5. In the current appeal, the Appellant's case on ground (a) sought to overcome these concerns through the provision of a landscaping scheme, and the identification of an alternative location to which the caravan could be moved. In my judgment, that is entirely reasonable. The Appellant has not simply persisted, without providing reasons, in the view that the development should be permitted but has considered, and engaged with, the reasons why it was not. In the context of an appeal against an Enforcement Notice that is proceeding on (among others) grounds (a) and (f), there is no procedural reason why an Appellant should not propose modifications to the development that are intended to make it acceptable in planning terms.
6. For the reasons set out in my decision on the appeal, I do not consider the Appellant's landscaping and relocation proposals capable of making the development acceptable. But that conclusion involved the exercise of planning judgment; it would not be fair to characterise those proposals as having had, from the outset, no reasonable prospect of success.

Conclusion

7. I find that unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

Jessica Graham

INSPECTOR