



Costs Decision

Site visit made on 8 May 2025

by **G Roberts BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 June 2025

Costs application in relation to Appeal Ref: APP/D0840/W/24/3357907

Land west of 14 Victoria, Lostwithiel, PL22 0AX

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr G Rule for a full award of costs against Cornwall Council.
 - The appeal was against the refusal to grant planning permission for the erection of a detached dwelling and formation of a vehicular access.
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Decision

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

Reasons

2. Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process. The PPG reference to “*unreasonable*” should be used in its ordinary meaning. The Appellant’s application for costs raises substantive points. The PPG states that local planning authorities (LPA) will be at risk of an award being made against them if they fail to produce evidence to substantiate their reasons for refusal.
3. The Appellant contends that the LPA did not exercise their duty to consider the application in a reasonable manner, they misunderstood and misapplied policy and that their decision was not based on any objective or proper analysis. The LPA, therefore, prevented development which should have been permitted resulting in the Appellant incurring the unnecessary or wasted expense of an appeal.
4. Whilst I have found the appeal proposal to be acceptable, in that it would not harm a designated heritage asset, that finding was based on the evidence presented, the policies of the development plan and those of the National Planning Policy Framework (NPPF). In relation to the heritage asset, it was based on the Character Zones for the Lostwithiel Conservation Area (LCA) referred to in the Lostwithiel Neighbourhood Plan 2015 – 2030 (NDP) and in the ‘Lostwithiel: Historic Characterisation’ report and my own observations on site.
5. The LPA’s evidence comprised its Statement of Case (SOC), based on its reason for refusal. The SOC provided a good explanation of the LPA’s objection to the appeal scheme. From this I was able to ascertain the reasons why the Planning Committee reached their finding contrary to Planning Officers recommendations. The Planning Committee and LPA are, of course, not bound to accept the

recommendation or advice given by its Planning Officers. Similarly, it is common for Planning Committee's to disagree with its Officers or in applying their own judgement, to reach a different view, to that of their Officers, on the planning merits of a proposal. There can be no guarantee, therefore, that a positive response from Officers will lead to an application being approved. There is also no evidence to suggest that Planning Committee were not aware of their obligations to weigh up all the relevant issues and submissions in reaching a balanced decision.

6. The LPA's costs rebuttal includes a copy of the Officers presentation to Planning Committee, which includes photographs and a 'balance of considerations'. It's clear that the development of the site had a long history, that there were strong objections to the proposal including from the Parish Council and Local Committee Member. I also agree with the LPA that the Appellant cannot make the assumption that Committee Members had not visited the site.
7. In relation to the impact of the development on the designated heritage asset, that assessment is essentially subjective and matters of judgement, on which opinions will differ. It is also for the decision-maker to decide what weight to accord specific factors and considerations, as well as the significance of the designated heritage asset. If it is found that, as in this case, the development would result in less than substantial harm, further judgements are required on the level of harm and whether this is outweighed by the public benefits of the proposal. That approach is set out in the NPPF and it's the approach that Planning Committee took. The latter is part of the statutory duty requiring special attention be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
8. The Appellants cost rebuttal refers to non-designated heritage assets, but that does not apply here. The appeal site and stone wall fall within the LCA (a designated heritage asset) and it is the harm to that asset that gave rise to the LPA's objection. In addition, the reason for refusal does not refer to paragraph 209 of the NPPF (2023) which deals with non-designated heritage assets (now paragraph 2016 in the revised NPPF). Whilst the reason for refusal refers to paragraph 203 of the NPPF (2023), now paragraph 210, both simply list the matters LPA's should take into account when determining applications. Similarly, the LPA's position was that the benefits did not outweigh the harm to the designated heritage asset and that in line with footnote 7, paragraph 11 d) i provided, in their view, a "*clear*" (now "*strong*" in the revised NPPF) reason to refuse planning permission.
9. The LPA did not, therefore, introduce a new reason for refusal and their objection remained consistent from their original decision to the evidence in their SOC. Whilst I did not agree with the LPA's findings, I am satisfied that their position did not alter and they provided sufficient reasons and evidence to support their objection.
10. Given the above, I cannot agree that the LPA acted unreasonably in this case.

Conclusions

11. Accordingly, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. A full award of costs is not, therefore, justified.

G Roberts

INSPECTOR