



Costs Decision

Site visit made on 23 September 2025

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

an Inspector appointed by the Secretary of State

Decision date: 30 September 2025

Costs application in relation to Appeal Ref: APP/D0840/D/25/3369363 36 Penlee Street, Penzance, Cornwall, TR18 2DE

- 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 Tara Stevens for a full award of costs against Cornwall Council.
 - The appeal was against the refusal to grant planning permission for the demolition of existing rear extension and construction of replacement partial two storey rear extension.
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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, that they failed to have regard to local precedents and that their decision was unfounded and unsupported by 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. The Appellant also alleges that the LPA did not undertake any meaningful discussion or consultations with the Appellant during the determination of the application. In my view and as this largely relates to the processing of the application and not the appeal process, it is a matter that the Appellant should take up directly with the LPA, if they have not already done so, through the LPA’s normal complaints procedure.
5. Whilst I have found the appeal proposal to be acceptable, in that it would not harm the living conditions of the neighbouring occupiers at 35 Penlee Street (No.35), that finding was based on the evidence presented, the policies of the development plan and those of the National Planning Policy Framework (NPPF), as well as my observations on site. The LPA’s evidence comprised its Delegated Report (CDR),

extracts from the Cornwall Local Plan Strategic Policies 2010-2030 (CLP) and its Cornwall Design Guide, as well as the representations from interested parties. All of this evidence, summarised in its reason for refusal, provided a good explanation of the LPA's objection to the appeal scheme.

6. In relation to the impact of the development on the living conditions of No.35, that assessment is largely subjective and a matter of judgement, on which opinions will differ. This was reflected in the assessment undertaken within the CDR, which referenced Officers observations on site and their queries and concerns over the accuracy and errors within the Appellants Shadow Analysis (ASA). The revised ASA, submitted with the appeal, sought to address those queries. Whilst the judgements and opinions I reached from my site visit differed from those of Officers, that is not uncommon in such cases.
7. Notwithstanding the examples of similar developments in the area, I also sought, as is required, to determine the proposal on its individual merits. In doing so, that also required a judgement to be made on the relevance of those examples that were permitted prior to the adoption of the CLP and CDG. As I found, there was no substantive evidence before me to support the contention that previous local plan policies (copies of which were not provided), that sought to control the impact of new extensions on neighbours, were materially different or less onerous than those in the CLP.
8. In addition, the relevance of the guidance within the CDG was also raised. As I found, I was not convinced that the CDG was directly relevant in that it referred to changes of use and varying scales of new housing developments. The CDG did not specifically refer to new extensions, as proposed or to any test or standards that should be applied when determining such applications. Notwithstanding this, the use of measures such as a notional 45⁰ test, a well-used and common rule of thumb, suggested that the proposal was acceptable in terms of its impact on the habitable rooms of No.35. This, combined with the judgements I reached, based in particular on the observations I made on site, led me to find that the impact of the proposal on the living conditions of No.35 would be modest.
9. Whilst I did not agree, therefore, with the LPA's overall findings and objection, I am satisfied that they provided sufficient evidence in support of their objection and that their contention as to why they considered the proposal to be unacceptable was not, as the Appellant alleges, unfounded.
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