



Costs Decision

Site visit made on 23 September 2025

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2025

Costs application in relation to Appeal Ref: APP/D0840/W/25/3362394

Britannia Farm, Sunny Corner, Cusgarne, Cornwall TR4 8SE

- 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 Chris Phillips (deceased) for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for renovation of an agricultural outbuilding to a domestic residential annexe for auxiliary accommodation to the main dwelling incorporating a bedroom and home office area for family use, retention and completion of parking area, domestic shed, change of use of agricultural land to domestic garden land and associated works.
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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 (the 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.
3. Much of the application relates to the way in which the Council handled the planning application. The PPG makes it clear that costs cannot be claimed for the period during the determination of the planning application¹. However, all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal, behaviour and actions at the time of the planning application can be taken into account in my consideration of whether or not costs should be awarded.
4. The applicant's case is summarised under the following headings:
 - A failure to communicate in line with established practice;
 - Imposing amendments that prejudiced the outcome;
 - Denying a fair opportunity to withdraw or resubmit;
 - Taking enforcement action contrary to due process;
 - Causing significant procedural and personal hardship.
5. On the first issue, it is evident that the applicant was frustrated by a change of case officer, who apparently adopted a different approach, and visited the site unannounced. However, it is speculation to suggest that it was this change of personnel that resulted in the unfavourable outcome of the application. In any event, it is the Council's final decision that is the subject of the appeal, and its

¹ Paragraph: 033 Reference ID: 16-033-20140306

liability for costs depends on whether it was able to produce evidence to substantiate its reasons for refusal, and otherwise act reasonably throughout the appeal process.

6. On the second matter, the evidence indicates that the application, as originally submitted, was limited to a proposal to provide the annexe in place of the existing agricultural outbuilding. The applicant contends that the Council required the scope of the application to be widened to encompass other matters, which were then cited as reasons for refusal. It is contended that this was unreasonable behaviour. However, it was reasonable for the Council to identify that the submitted plans included other development that had not been previously authorised. Failure to do so could have resulted in confusion as to what was being considered.
7. It was for the applicant, and his professional advisers, to decide how to present the application once this issue had been identified. The other unauthorised elements could have been removed from the drawings, so that only the annexe was to be considered. However, the chosen approach was to widen the scope of the application in an attempt to regularise these elements at the same time. Whilst the other matters contributed to the reasons for refusal, it is clear from the evidence that the annexe proposal was, by itself, found to be unacceptable to the Council. The application was not, therefore, refused solely due to the inclusion of the other elements. Consequently, the Council's request that the other elements should be included did not result in a refusal that could otherwise have been avoided.
8. On the third issue, the appellant contends that the decision came as a surprise, as there was no advance warning from the Council that the application would be refused. It is contended that this was unreasonable, as it denied the applicant the opportunity to withdraw the application, and to resubmit an alternative proposal. However, the alternative proposal envisaged appears to be the application as originally submitted, for the annexe only. As identified above, this element of the proposal was unacceptable to the Council, so it is likely that a resubmitted application on this basis would also have been refused. Consequently, it is unlikely that the opportunity to withdraw the application would, ultimately, have avoided an appeal.
9. On the fourth matter, the applicant contends that the Council has unreasonably pursued enforcement action against the elements of the proposal that were only included at the Council's request. The Council has clarified that, at the time of the application for costs, a Planning Contravention Notice had been issued, but no Enforcement Notice had been served. In any event, the enforcement process is a separate matter to the planning appeal that was before me, and there is another right of appeal against any Enforcement Notice that may be served. It is not unreasonable behaviour on the part of the Council to investigate whether enforcement action should be taken following refusal of a retrospective application for unauthorised development. Pursuit of this separate matter has not resulted in any additional cost to the applicant in relation to the planning appeal.
10. On the final bullet-point above, I am mindful that these proceedings are taking place under difficult personal circumstances. However, the appeal and costs claim are being pursued. The Council therefore has to defend the appeal, and to produce evidence to substantiate its reasons for refusal.

11. In addition to the issues summarised above, the applicant also alleges inconsistency in the way that the Council has considered this application for an annexe compared with other cases. The PPG states that not determining similar cases in a consistent manner is behaviour that could lead to an award of costs against a local authority. However, I have not been provided with details of any of the other developments, so I cannot conclude that there has been any unreasonable behaviour by the Council in this regard.
12. It is also contended that the Council introduced new policy arguments in its statement of case. In this regard, I note reference is made to Policy H4 of the Gwennap Neighbourhood Development Plan 2019-2030, and comment is made about the lack of a structural survey of the existing agricultural building. Whilst these are new references, they came in response to the applicant's request that the description should refer to the renovation of the building rather than its demolition and replacement. It was not unreasonable for the Council to introduce these references in response to the applicant's evolving case.
13. To conclude, whilst I allowed the appeal, the Council provided a fully reasoned statement of case, which adequately justified the decision that it made. The PPG says that where local planning authorities have exercised their duty to determine planning applications in a reasonable manner, they should not be liable for an award of costs.
14. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred, and an award of costs is not warranted.

Nick Davies

INSPECTOR