Planning Inspectorate

Costs Decision

Site visit made on 11 August 2025

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2025

Costs application in relation to Appeal A Ref: APP/D0840/C/24/3349733
Hillcrest Cottage Trenerth Road, Leedstown, Hayle TR27 5ER

- 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 Ms Julie Wooliston for a full award of costs against Cornwall Council.
- The appeal was against an enforcement notice alleging without planning permission, the conversion and extension of a garage/store building (approved under PA17/02410) for use as an independent residential dwellinghouse. The approximate position of the dwellinghouse is outlined in blue on the attached plan and the approximate location of timber extension has been shaded in orange.

Costs application in relation to Appeal B Ref: APP/D0840/W/24/3349753
Hillcrest Cottage Trenerth Road, Leedstown, Hayle TR27 5ER

- 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 Ms Julie Wooliston for a full award of costs against Cornwall Council.
- The appeal was against the refusal of planning permission of a retrospective application for the conversion and extension of garage to create ancillary residential accommodation.

Decision

1. The application for an award of costs on Appeal A and Appeal B are both 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. Unreasonable behaviour can be procedural, or it can relate to the substance of the matters under consideration as part of the appeal.

3. Paragraph 049[1] of the PPG highlights the examples of unreasonable behaviour by the Local Planning Authority (LPA) where costs can be awarded. The applicant has submitted that the LPA has demonstrated procedural unreasonableness, in that it served an enforcement notice (EN) before a related planning application had been determined. In doing so the applicant claims that the LPA pre-determined the planning application and thus they incurred unnecessary and wasted expense in appealing the EN and the planning application.

4. Following the responses received from the applicant on a Planning Contravention Notice (PCN) issued at the appeal site, the LPA was concerned regarding the time limits for taking enforcement action as set out in s171B of the Town and Country Planning Act 1990 (the 1990 Act) as amended. The PCN responses highlighted that the relevant 4 year period for taking enforcement action in respect to operational development was approaching, thus the LPA sort to protect its position

[1] Appeals Paragraph: 049 Reference ID: 16-049-20140306

by serving an EN as the extension at Hillcrest Lodge had been substantially completed.

5. Clearly, it is not unusual for an LPA to serve an EN before the relevant time limit as set out in s171B of the 1990 Act has expired. In this case, the operational development relating to the extension at Hillcrest Lodge was considered by the LPA to facilitate its alleged use as an independent residential dwellinghouse. Whilst I have reached an alternative conclusion in respect to the use of Hillcrest Lodge, the operational development had occurred matter of fact, and in order to prevent immunity through passage of time the LPA was justified in serving an EN. In this regard I do not find that the LPA has acted unreasonably.

6. The reasons for issuing the EN are set out in the notice and relate to the extension of Hillcrest Lodge facilitating its use as an independent residential dwellinghouse in an unsustainable location. This was considered contrary to the relevant policies of the Local Plan and the National Planning Policy Framework (the Framework) which formed the LPAs development plan at the time of its decision. There had been no material change in circumstances between the issue of the EN and the determination of the planning application. As a result, the LPA has been consistent in its application of policy, and I do not find that the sequence of events has led to any pre-determination of the planning application.

7. The LPA's reasons for refusing the scheme are complete, precise, specific and relevant to the application. I find in reaching a decision the LPA did consider the proposal against the relevant development plan policies and in respect of all appropriate matters reached a conclusion that was objective and reasoned in its analysis. As such, I am satisfied that the LPA has shown that it was able to substantiate its reasons for serving the EN and refusing the scheme, which resulted in the subsequent appeals.

8. It is acknowledged that by serving the EN prior to the determination of the application, it precluded the applicant from appealing the EN under ground (a) in accordance with s174 (2A) of the 1990 Act. Nevertheless, the planning merits of the case were fully explored through the submission of the planning application and the subsequent appeal (Appeal B). Whilst I reached a different conclusion in these matters, I find that consideration of the ancillary nature of the use at Hillcrest Lodge, would nevertheless have needed to be assessed at the appeal stage. In this regard, I do not find this was an unnecessary step in the appeal process nor that it caused wasted expense.

9. Consequently, as I am unable to conclude that the LPA behaved unreasonably, the costs incurred by the applicant in pursuing the appeal were the normal costs arising when the right of appeal is exercised. As parties in planning appeals and other planning proceedings normally meet their own expenses, I therefore find that unreasonable behaviour by the LPA, resulting in unnecessary and wasted expense, as described in the PPG, has not been demonstrated and that no award of costs is justified.

Robert Naylor

INSPECTOR