



Costs Decision

by P N Jarratt BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2025

Costs application in relation to Appeal Ref: APP/D0840/X/25/3368749 and Appeal B Ref: APP/Q1153/C/23/3314437

Kennack Sands Holiday Park, Kennack Sands, Kuggar, Ruan Minor, HELSTON, TR12 7LT

- 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 Mr Shaun Matthews for a full award of costs against Cornwall Council.
 - The appeal was against the refusal in part of a Lawful Development Certificate (LDC) for the use of land as a caravan site in breach of conditions attached to planning permission W2/51/2936/F.
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Planning Practice Guidance

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 appellant

3. The claim is for a substantive award of costs in that the Council has not properly exercised its duties in respect of the LDC. The Council has agreed within the Statement of Common Ground that matters subject to the appeal are lawful and that they had sufficient evidence to issue an LDC in breach of all four conditions. The appellant contends that the Council unreasonably substituted matters which it favoured as a planning outcome, beyond the scope of the legislative provision. It is contended that the appeal has been unnecessarily prolonged and that the Council's statement of case was used to defend its exposure to costs rather than to make a case to defend the appeal.

The Council

4. In rebuttal the Council considers the claim to be procedural rather than substantive. The appellant has sought to widen the scope of the application beyond those in the original application and questions the late inclusion of additional conditions. The Council indicates that had unreasonable behaviour occurred in the processing of the application the remedy exists through the Council's complaints procedure. The Council reviewed the case promptly following the lodging of the appeal, engaged with the appellant and sought the submission of a revised application.

Reasons

5. The Council has not made any comment on the basis of the applicant's claim being for a substantive award but re-iterates the list of examples in the PPG of unreasonable behaviour that could lead to a procedural award of costs.
6. The appellant's claim does not arise from any failure in the processing of the application but it is due to decision-making leading to reasoning that does not stand up to scrutiny through the attempt to restrict a planning use shown to be lawful.
7. The Council's determination of the LDC application on the basis of a description of the development of their own creation was unreasonable in respect of the substance of the matter. They were unable to defend the decision. Whilst the Council responded to the evidence submitted on appeal leading to an acknowledgement of their error in misdescribing the development, this was not undertaken expeditiously and had to be pursued by the appellant, including the opportunity for the Council to reduce its exposure to greater costs had the inquiry gone ahead as originally planned.
8. The Council correctly states that the appellant introduced breaches of conditions 2 and 9 within the appeal which widened the scope of consideration to elements not sought in the original application. However, it was the Council who introduced the breach of condition 2 during the appeal application. This required the appellant to research the planning history following the 1951 permission which had not been previously available in an accessible form. Despite the case officer confirming that the breach of condition becoming lawful, the appellant considers that the Council had been unreasonable by not including this in the LDC. Similarly, in respect of condition 9 requiring compliance with the approved 1951 plan, the Council only made the plan available after the appeal had been made.
9. As the Council has agreed that the evidence submitted with the application was sufficient to demonstrate the breach of all four conditions, it appears unreasonable not to have included these in the LDC, notwithstanding the Council's offer to allow the appellant to re-submit an application without a fee. An appeal would not have been necessary, had it not been the Council seeking to restrict the use of the land to 'seasonal' and unsustainably reasoning that condition 1 had only been partially breached'.
10. Although the Council is entitled to decline to widen the scope of the appeal beyond what was applied for, it seems that the Council has taken an unnecessarily hard line in view of the unusual circumstances of this case. A broader view could have been taken and a certificate could have been issued bearing in mind the inadequacy of the Council's approach to the application. Whilst it is not unusual for records of historic planning permissions to be difficult to access, it is not unreasonable for an individual to be able to access from a local planning authority basic information about a planning permission, such as an approved plan.
11. The appeal has been unnecessary, as had the Council acted reasonably in determining the application for an LDA and assessed the evidence on the balance of probability, a certificate could have been issued in the terms it has since agreed as lawful.

Conclusion

12. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted

Costs Order

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990, as amended, and all other enabling powers in that behalf, it is ordered that Cornwall Council shall pay Mr Shaun Matthews the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
14. Mr Shaun Matthews is invited to submit to Cornwall Council to whom a copy of this decision has been sent details of those costs with a view to reaching the agreement on the amount

P N Jarratt
INSPECTOR