
Costs Decision

Site visit made on 9 February 2026

by **David Wyborn BSc(Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 March 2026

Costs application in relation to Appeal Ref: APP/D0840/W/25/3371988

Harbour Lights, Love Lane, Busvannah, Penryn, Cornwall TR10 9LQ

- 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 and Ms B Gowers and J Higginson for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for an outline application for residential development of land for up to 1no self build dwelling with all matters reserved.
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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 (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. The applicant seeks a full award of costs. These reasons include, but are not limited to, what is considered to be a dubious use of the 'five day protocol' process, and the generalised and inaccurate assertions about the landscape impact of the proposed development which are unsupported by any objective analysis.
4. The case is made that Penryn Town Council, in its response of 13 May 2025, "fully support" the proposal, however the Officer Report makes no mention of this and instead quotes the Town Council's response to the five day protocol correspondence which states "agree to disagree". The applicant explains that the reliance on the five day protocol – a private dialogue between Cornwall Council and Penryn Town Council - denied the applicants the opportunity to engage with elected representatives in a democratic process. It is argued that this is unreasonable behaviour because there was no opportunity to request that an elected member try and refer the planning application to the Council's Planning Committee, and no opportunity to withdraw the planning application in advance of an imminent refusal. There are inaccuracies in the reporting of the views of Penryn Town Council in the Officer Report.
5. The applicants considered that if Cornwall Council had not acted unreasonably in this way it is more likely that planning permission would have been granted and that the costs of appealing would not have been incurred.
6. Furthermore, the applicants maintain their view that officers' generalised and inaccurate assertions about the landscape impact of the appeal process, not

supported by objective comments from a landscape officer or a representative of the Cornwall National Landscape, is unreasonable with respect to the substance of the landscape matters and the landscape impacts attributable to new development at Harbour Lights.

7. The Council has responded to say that it has followed its established and published protocol for processing applications where the Planning Officer recommendation is different to the views of the local council. The Council comment that its procedures and processes are a matter for the Council alone. It also makes the case that the costs which are sought are part of the processing of the application and costs can only be awarded for unreasonable behaviour in the appeal process. The Council explain that if the applicants had wished to make contact with elected members they could have done so in any case.
8. The Council consider that the Officer Report sets out the impact of the proposal on the natural environment and the details of the considered harm have been amplified in the appeal statement. The Council refute the suggestion that it has made generalised and inaccurate assertions about the landscape impact.
9. In analysing these matters, with regard to how the Council dealt with the support of the Town Council, it appears to have followed its established procedure where there is a disagreement between the recommendation of planning officers and a local council. I agree with the applicant that the summary heading of the officer report, where in response to the question "is this decision contrary to the local council recommendation?" and the response indicates "N" which I assume means no, is not correct.
10. The Penryn Town Council had fully supported the scheme and therefore the decision was contrary to the local council recommendation, which is why the protocol had been followed. Further down in the report, the response from the Town Council is "Option 2 – agree to disagree" which the officer would have understood but I consider that it would have been clearer if the original submission to fully support the scheme had also been included as well as the response to the protocol request.
11. Nevertheless, the delegating officer would have appreciated what this response meant in terms of the original representation and the subsequent reference to Option 2 because the protocol had been instigated. The analysis and recommendation to refuse was clear and consistent throughout the report. If the applicant wished to contact local councillors then it was open for them to do so before submission or after the application had been registered. From the submission it appears that the Council's documented protocol has been followed in the normal way and a decision reached which followed that protocol.
12. The PPG explains that costs cannot be claimed for the period during the determination of the planning application, although all parties are expected to behave reasonably throughout the planning process. In this case, the Town Council responded to agree to disagree (Option 2 in the protocol) and the decision was appropriately delegated. Given the report I can see no prospect of a decision other than refusal at the delegated stage, and therefore if the applicant wished to challenge the decision then an appeal was unavoidable. If the applicant is unhappy with the processing of the application and the related protocol then it can take the matter up directly with the Council, as these are procedural matters for the Council

to consider rather than within the appeal process which is decided on its planning merits.

13. In terms of the landscape impacts, the Officer Report explains the harm that is considered would be caused. The analysis is sufficiently detailed and proportionate for the scale of the proposal. While there was no comments from a landscape officer or the National Landscape body, I have no reason to dispute that the planning officer is a suitable officer capable of making an assessment and recommendation. The considered harm to the landscape was then articulated in the appeal statement. This analysis was not vague or generalised and did not make inaccurate assertions about a proposal's impact. Indeed, the consideration of the proposal's impact on the character and appearance of the area is a matter of judgement and the Council exercised that judgement reasonably in this case.
14. It follows from the above analysis, that the Council has acted reasonably and that an appeal was unavoidable.

Conclusion

15. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process, as described in the Planning Practice Guidance, has not been demonstrated and an award of costs is not justified.

David Wyborn

INSPECTOR