

Costs Decision

Site visit made on 23 January 2017

by CD Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 08 February 2017

**Costs application in relation to Appeal Ref: APP/D0840/W/16/3159769
Land near Chytan Farm lying to the north of Tamerisk, Trethurgy,
St Austell PL26 8YD**

- 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 Cornwall Council for a full award of costs against Mr & Mrs Matthew Turner.
 - The appeal was against the refusal of planning permission for 4 bedroom detached house with 1 bedroom annexe and garage.
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Decision

1. The application for an award of costs is refused.

Reasons

2. The National Planning Practice Guidance (PPG) advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. The main thrust of the Council's case is that the appellants pursued the appeal unreasonably without sound grounds.
 4. I understand that the appellants sought pre-application advice which indicated that the proposed dwelling was likely to be refused. However, the weight that can be assigned to such advice reduces over time. The adopted policies of the Restormel Borough Council Local Plan were clearly becoming very dated when the pre-application advice was issued and the subsequent application was lodged. Furthermore, the Officer Report acknowledged that only limited weight could be assigned to the emerging Cornwall Local Plan at that time. Consequently, the status of the development plan when the application was determined was clearly in a state of flux.
 5. The Council's reasons for refusal were largely based on policies which restrain development in the countryside, with the Restormel Borough Council Local Plan and National Planning Policy Framework being quoted in the Decision Notice. However, given that the weight that could be assigned to the Local Plan was reduced at that time, there were clearly grounds to pursue an appeal. Indeed, the Officer Report quotes a number of less prescriptive national policies, including the presumption in favour of sustainable development.
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6. The appellant's evidence directly addresses many of the matters raised within the Officer Report through reference to the policies of the Restormel Borough Council Local Plan, Cornwall Local Plan and the National Planning Policy Framework. This includes an assessment of the proposal against the three dimensions of sustainable development. The material considerations put forward within the appellant's original Statement and subsequent correspondence raise matters that are relevant to the appeal, even if the Council does not agree with them.
7. In my view, the Council's decision to pursue of an award of costs was unwarranted. I conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

CD Cresswell

INSPECTOR