The Planning Inspectorate

Costs Decision

Site visit made on 4 April 2017

by Colin Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 28 April 2017

Costs application in relation to Appeal Ref: APP/D0840/W/16/3160559 Tremedda, Wheal Venture Road, St Ives TR26 2PQ

- 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 Douglas Vallender for a full award of costs against Cornwall Council.
- The appeal was against the grant subject to conditions of planning permission for demolition of existing house and replacement with two houses.

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 Officer Report and Council Statement are very clear that the purpose of the disputed condition 2 is to comply with the provisions of Policy H2 of the Neighbourhood Plan[1] which requires a condition or planning obligation to be imposed to restrict the occupancy of new dwellings. This policy applies to the whole of St Ives, including the appeal property, and does not distinguish between areas of higher or lower pressure for second/holiday homes.

4. Although the plan was subject to a legal challenge when the application was originally determined, it nonetheless remained a strong material consideration given its advanced state of preparation at that time. As such, the Council was reasonable in applying the condition even though the appellant put forward a case to argue the appeal site is located in part of the St Ives under less pressure for second/holiday homes.

5. The appellant states that the Council failed to identify any adverse impacts that would arise if the disputed condition was not imposed. However, both the Officer Report and Council Statement make direct reference to the objectives of Policy H2 in attempting to change the balance of housing in the town. It can be reasonably implied from the Council's evidence (including paragraph 5.8 of their Statement) that the effect of not imposing the condition would be the uncontrolled growth of second/holiday homes, which the Neighbourhood Plan

[1] St Ives Area Neighbourhood Development Plan

considers to be unsustainable. While the appellant disagrees that the condition would help to achieve this objective, it was nonetheless reasonable for the Council to apply development plan policy.

6. The Council address enforcement of the condition, its precision and other and other appeal decisions in paragraphs 5.9 – 5.12 of their Statement. Although the appellant does not agree with the Council's arguments in respect of these matters, they are nonetheless addressed. Consequently, I do not consider that the Council has made vague or generalised assertions or otherwise ignored the key points made by the appellant.

7. The appellant suggests that condition 2 has affected the financial viability of the appeal proposal and has unreasonably prevented development from proceeding. However, very little was put forward during the course of the appeal in the way of financial evidence or other information to demonstrate that this was the case. In the absence of such evidence, the Council could not have been expected to waiver the condition on these grounds alone.

8. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

Colin Cresswell

INSPECTOR