
Costs Decisions

Site visit made on 9 January 2018

by C J Ball DArch DCons RIBA IHBC

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

Decision date: 16 January 2018

Costs applications in relation to Appeal Ref: APP/D0840/W/17/3181462 Land east of Moor Cottage, Trewiston Lane, Wadebridge PL27 6PY

- The applications are 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 applications are made by Cornwall Council for a full award of costs against Mr C Mead and by Mr C Mead for a partial award of costs against the Council.
 - The appeal was against the refusal of planning permission for a detached dwelling.
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Decision

1. Both applications for an award of costs are refused.

Reasons

2. The Planning Practice Guidance 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 Council's claim

3. The Council claims that, since the site falls outside the development boundary identified in the made DNP and is not 'rounding off' as defined by policy 3 of the CLP, the proposal is clearly contrary to the local development plan. There is no evidence to justify an exception to policy and the appeal clearly had no reasonable chance of success.
4. The Council's decision on this case was made before the DNP was adopted so, in policy terms, to all intents and purposes this proposal made in January 2017 was similar to that approved in December 2016. In this case the Council gave more weight to the emerging DNP, resulting in a different balance of considerations. While the DNP was 'made' before the appeal was submitted, and thus became a full part of the development plan, at the time of the application the Council itself had recently granted permission for 2 houses within the cluster following an earlier appeal decision. While I have found in favour of the Council, I consider that it was not unreasonable of the appellant to test the consistency of approach in considering whether the site was a developable part of the cluster, a matter of judgement, and the consequent interpretation of policy.

The appellant's claim

5. The appellant claims that he has unreasonably incurred the additional costs of presenting a defence to the claim for costs by the Council.

6. Unless there has been unreasonable behaviour by one party, all parties to an appeal bear their own costs, including the making and rebuttal of any costs claim. In this case, because of clear conflict with the development plan, the Council considered that the appeal had no chance of success, a legitimate reason for claiming costs. While I disagree with the Council on the reasonability of bringing the appeal, I consider that it was not unreasonable of the Council to make a claim for its costs. It was thus necessary for the appellant to respond at his own expense.
7. I therefore find in each case that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Colin Ball

Inspector