



Costs Decision

Site visit made on 6 August 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2019

Costs application in relation to Appeal Ref: APP/D0840/W/19/3229128 Trelyn, Mill Hill, Porthtowan TR4 8AT

- 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 Mrs Evans for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of planning permission for the erection of a single dwellinghouse within domestic garden.
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Decision

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

Reasons

2. The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, 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 applicants consider that the Council acted unreasonably because they contend that the proposed development accords with the development plan and should therefore have been permitted. It is asserted that the Council misapplied the adopted development plan policies, placed too much weight on the emerging St Agnes Neighbourhood Development Plan (NDP), did not take account of the site's context and referred incorrectly to the use of surrounding buildings, was inconsistent in its decision making, and did not identify the alleged harm. It has been put to me that this has delayed an acceptable development and resulted in unnecessary expense in undertaking the appeal.
4. I acknowledge the applicants' frustration that the time taken by the Council to determine the planning application has meant that aspects such as the Community Infrastructure Levy and the NDP have become factors. I also note their reference to an apparent conflict between the Cornwall Local Plan Strategic Policies 2010-2030 (CLP) and the NDP. However, these matters are not determinative as to whether the Council acted unreasonably in refusing the planning application.
5. Based on the evidence before me, I am satisfied that the Council did not: misapply adopted development plan policies, including with particular regard to CLP Policy 3 in relation to the issues of in-fill, rounding off and previously developed land; place inappropriate weight on the St Agnes NDP which, although emerging when the Council determined the application and submitted its appeal statement, has since been passed at referendum and the National Planning Policy Framework indicates that local planning authorities may give

weight to relevant policies in emerging plans; ignore or incorrectly refer to the site's context and surrounding buildings, with the Council setting out its understanding of these aspects and the evidence before me not substantiating an alternative position; or fail to identify the alleged harm, which is clearly set out in both the Council's Officer Report and appeal statement. The evidence before me also indicates that the Council was not inconsistent in its decision making, with the examples of other developments put to me either demonstrating a broadly consistent approach to the relevant issues or not involving schemes which are directly comparable to the appeal proposal.

6. In dismissing the appeal, I found that the proposed development would conflict with various CLP policies. Accordingly, it does not accord with the development plan and this indicates that the refusal of permission by the Council was not an unreasonable act of itself.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

Tobias Gethin

INSPECTOR